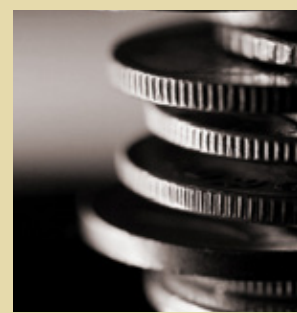


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# EAST AFRICAN COMMON MARKET SCORECARD 2014

Tracking EAC compliance in the  
movement of Capital, Services  
and Goods



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Tracking EAC compliance in the  
movement of Capital, Services  
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CAPITAL · SERVICES  
· GOODS · CAPITAL  
· GOODS · 2014.

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*"The Council of Ministers shall establish a framework for monitoring and evaluation" : Article 50, EAC Common Market Protocol*



# FOREWORD

The rationale for the East African Community Common Market is compelling - it has the potential to build economies of scale, accelerate competitiveness, and bring the region closer to achieving its dream of a single investment destination. The Common Market can expand opportunities for the private sector and uplift the living standards of its citizens in a way that no Partner State can do on its own.

Full implementation of the Common Market is a challenging task. It calls for strong implementation by all parties, particularly the Partner States, so as to deliver the rights and freedoms enshrined in the EAC Common Market Protocol. This requires a robust implementation cycle: including planning, implementation and monitoring of progress.

The East African Common Market Scorecard contributes to monitoring the implementation of the Common Market by tracking progress of Partner States in fulfilling their commitments as provided in the Protocol. The scorecard examines selected commitments made by the Partner States, outlines progress in removing legislative and regulatory restrictions to the Protocol,

and recommends reform measures.

This scorecard, the first of its kind in EAC, covers capital, services and goods - the key foundations for a functioning Common Market.

We expect that the scorecard will contribute to better compliance of commitments under the Protocol, through fostering peer learning and facilitating adoption of best practice in the EAC region.

East Africans look forward to a better - not just larger - market that will achieve global competitiveness.

This publication is an important part of that journey and we are pleased to be associated with the East African Common Market Scorecard 2014.



Dr. Richard Sezibera  
Ambassador  
Secretary General  
East African Community



Cheikh Oumar Seydi  
Director, East & Southern Africa  
International Finance Corporation

*"The Council shall review commitments and programs to ensure adherence to the protocol" : Article 50, EAC Common Market Protocol*



# EXECUTIVE SUMMARY

The *EAC Common Market Scorecard 2014* assesses progress toward the development of a common market in capital, services, and goods across the Partner States of the East African Community (EAC)—Burundi, Kenya, Rwanda, Tanzania, and Uganda.

**The EAC Common Market Protocol is one of the more ambitious regional integration agreements globally.** The Protocol covers several commitments. To enable free movement of capital, 20 operations related to securities, direct investments, credit operations, and personal capital operations are required to be free of restrictions. For free movement of services, the Partner States have concluded negotiations to liberalize 7 of 12 sectors currently covered by WTO's General Agreement on Trade in Services (GATS). They have also committed not to introduce new restrictions, and to eliminate existing ones. For goods, all Partner States are required to remove internal tariffs, implement a common external tariff, remove non-tariff barriers to trade, among other commitments. If fully implemented, these measures will have a profound and positive impact on the economies of the Partner States.

**Laws and regulations of the EAC Partner States however still present barriers to increased cross-border trade and foreign direct investment into the region.** Legal and regulatory measures inconsistent to regional commitments to establish a common market impede

regional integration. For capital, neither securities nor direct investment operations—except repatriation of proceeds from sale of assets—are free of legal restrictions across the bloc. For services, 67% of identified measures negatively affect foreign direct investment. Barriers to the movement of goods also affect investment: many investors start as traders, then gain confidence in a country's markets and move production there. But without such confidence, such investment will not happen.

**Progress to eliminate restrictions has been slow, and some Partner States have introduced new measures despite their obligations under the EAC Common Market Protocol.** Since the Protocol came into force in 2010, Rwanda, Tanzania, and Uganda have introduced at least 10 restrictions on the movement of capital. In services, several new restrictions have been introduced or carried over from older laws since the Protocol was signed. And in goods, where obligations started earlier at the enactment of the Customs Union Protocol, 51 non-tariff barriers (NTBs) arising from regulatory measures by governments were identified between 2008 and June 2013.

**Identified restrictions affect more than just market entry.** Many of the restrictions on the free movement of capital, services, and goods inhibit or make entry into the market unduly expensive. But several forms of discrimination persist even after entering the market—such as different

fees for transactions and government services, ceilings on the value of transactions, limits on the type and length of projects for service providers, and higher taxes for foreign firms. Some barriers, such as restrictions on personal capital transactions and on the transfer of shares in firms, affect even firms seeking to exit a particular economy.

**A lenient attitude toward exemptions is slowing the development of the common market.** Exemptions are legal mechanisms among Partner States to exclude individual Partner States from specific obligations to the common market. But when not closely regulated, exemptions can undermine the achievement of a common market. For example:

- Apart from their membership in the EAC, all Partner States are also members of other regional integration schemes, making it very difficult to construct a common market enabling a free circulation of goods within the region.
- All Partner States except Burundi restrict the free movement of capital for prudential reasons without notification.
- Some Partner States have not committed to fully liberalize their services trade.

Such exemptions, though legal, impede the implementation of the EAC common market. Similarly, the Partner States should make more ambitious

commitments to liberalize the movement of services. In all instances, there should be participation by parties affected by such exemptions, including the private sector.

## FREEDOM OF MOVEMENT OF CAPITAL

### Key Findings

- All EAC Partner States have restrictions that affect inward investment from other EAC economies.
- Only 2 out of the 20 capital operations are free of restrictions in all Partner States. These are external borrowing by residents and repatriation of proceeds from sale of assets. All other 18 operations have at least 1 Partner State restricting the operation.
- Kenya's laws and regulations make it easiest to move capital across the EAC. Tanzania and Burundi make it hardest.
- Combined, EAC Partner States need to repeal provisions in at least 25 laws and regulations to fully comply with the protocol. Rwanda has the most (8), while Burundi has the fewest (2) laws and regulations in need of a revision.
- Capital controls are the most severe restriction on the movement of capital across the EAC, affecting the majority of transactions covered under the protocol. Burundi's controls restrict 7 operations and Tanzania's restrict 12.
- No EAC state has developed regulation for derivatives.
- 4 EAC Partner States—Burundi being the only exception—have introduced exemptions to the protocol without following the requirements for notification of the other Partner States or the EAC Secretariat. At least 9 such exemptions are in place, guided by concerns about prudential supervision, public policy, money laundering, financial sanctions agreed to by the Partner States, and financial disturbances.
- Despite the protocol coming into force in 2010, and contrary to the requirements of Article 24, new restrictions on the movement of capital have been introduced in some Partner States' laws.
- Restrictions on the movement of capital affect more than just moving

capital across the EAC. Some restrictions remain during the life of the investment, favoring domestic investors. Uganda for example reserves a set of incentives available only to domestic investors.

### Recommendations

- Regulators should move away from merit-based decision-making (that is, using the perceived likelihood of an investment's success as a basis for authorizing it) toward a disclosure approach (to ensure that sufficient information about an investment opportunity is disclosed so that potential investors can make informed judgments about its attractiveness).
- The EAC Secretariat and Partner States need to enforce the notification mechanism, which will create a transparent and credible system for monitoring the free movement of capital in the EAC.
- When Partner States impose restrictions on the movement of capital, they should always be temporary. Exemptions allowed under Article 25 (1) of the protocol should be applied only when essential.
- To unleash regional capital for private sector growth, the EAC should prioritize the rollback of laws, regulations, and investment codes that impede investment.
- Capacity building is required for effective financial integration, including the development of market intermediaries, stronger coordination of securities markets, and more investment in public awareness.

## FREEDOM OF MOVEMENT OF SERVICES

### Key Findings

- A review of more than 500 key sectoral laws and regulations of the EAC Partner States identified at least 63 measures inconsistent to commitments to liberalize services trade within the EAC. The review focused on professional services (legal, accounting, architectural, and engineering), road transport, distribution (retail and wholesale), and telecommunications legislation.
- Professional services account for nearly three-fourths (73%) of the 63 identified measures, led by engineering (16), accounting (14), and

legal services (10). The other measures involve road transport (15) and wholesale distribution (2).

- Telecommunications and retail were the only studied sectors with no identified measures inconsistent to the protocol. However, restrictions on services trade within the EAC still exist in these sectors, and they are scheduled for elimination before 2015.
- The measures are most common in Tanzania (17) and Kenya (16), followed by Rwanda (11), Uganda (10), and Burundi (9). Burundi's strong performance on the scorecard is partly due to the fact that some of its sectors are not yet regulated through sectoral legislation.
- About three fourths of the identified measures are national treatment related and discriminate against services or service suppliers of the EAC Partner States. The rest of them affect the Most Favored Nation principle, involving preferences for service suppliers outside of EAC.
- Nearly all inconsistent measures concern multiple modes of services supply, including presence of natural persons (Mode 4) and commercial presence (Mode 3). No measures affect consumption abroad (Mode 2).
- Across the Partner States, 75% of measures were identified in laws, 15% in administrative measures, and 10% in regulations.
- Inconsistent measures were found not only in sectoral legislation, but also in laws that cut across all sectors. A partial, complementary review of the Partner States' principal investment and company laws identified 11 additional measures in the EAC region.
- None of the Partner States have been complying with their obligation to regularly inform the EAC Council of any new laws and administrative guidelines that affect trade in services.

### Recommendations

- All measures inconsistent to the protocol identified through this legal analysis present concrete opportunities for reform, focused on liberalizing legal restrictions and aligning Partner States' legislation with their regional commitments.
- The analysis presented in this report offers only a partial view of the lack of the Partner States' compliance with their liberalization

commitments. The assessment should be expanded to cover all services sectors and all legislation where inconsistent measures could be found.

- For the EAC Partner States to further demonstrate their commitment to advancing services liberalization and establishing a common services market, they should bring their laws and regulations in line with the regional agreements. This however will only be part of the solution. The bigger, and much more challenging task is to ensure that the free movement of services exists not only on paper, but also in practice. Consistent and full application and implementation of the Partner States' legislation is the only way of achieving deeper services liberalization and promoting free movement of services in the EAC.
- In order to foster this compliance, the private sector, EAC Secretariat, and the Partner States should agree on a practical agenda for addressing the inconsistent measures. A working committee, for example EAC's Judicial and Legal Affairs Committee, could leverage this project's findings. Once a specific agenda that includes targets, milestones, and actions has been completed, a simple monitoring system could be used to check if commitments were completed within their targeted timeframes.
- Associated with the commitment to progressively liberalize services sectors is also the obligation for each Partner State to regularly inform the EAC Council of any new laws and administrative guidelines which affect trade in services. This notification has unfortunately not been a common practice. Establishing an effective reporting mechanism would add transparency and facilitate monitoring of the Partner States' progress towards liberalization.

## FREEDOM OF MOVEMENT OF GOODS

### Key Findings

- While all Partner States have formally eliminated tariffs on intraregional trade, measures with equivalent effect remain. For instance, EAC certificates of origin are often not recognized at borders, and none of the Partner States have complied with EAC Council's recommendations to enact domestic legislation imposing penalties on people who furnish false documentation to obtain them.

- All Partner States still apply non-tariff barriers (NTBs), with most related to sanitary and phytosanitary measures, rules of origin, additional taxes and charges, and technical barriers to trade. The fact that an important number of NTBs relate to standards and phytosanitary standards shows that effective implementation in this area remains a problem.
- Though most Partner States are in formal legal compliance with the obligation to introduce a common external tariff, they are all members of multiple free trade areas. This means that the Partner States apply different tariffs to extra-regional trade partners. These and other exceptions impede the effective free circulation of goods within the EAC.

### Recommendations

- Ensure complete elimination of tariffs and equivalent measures affecting intraregional trade.
- Ensure elimination of non-tariff barriers (NTBs). The Time Bound Program being implemented to identify and eliminate NTBs is helping to address these problems, and additional technical assistance could improve these efforts.
- Ensure greater effective implementation of the common external tariff.
- Continue the process of harmonization and mutual recognition of sanitary and phytosanitary standards (SPS) and standards preventing technical barriers to trade (TBT).

## ABOUT THE EAC COMMON MARKET SCORECARD

The rationale for creating the EAC Common Market is compelling – it would combine the region's economies, create new opportunities for the private sector and increase competitiveness. However, a common market requires that people, goods, services and capital move freely.

The EAC Common Market Scorecard measures the degree of Partner States' legal compliance with their obligations to liberalize the cross-border movement of capital, services and goods.

Strong and integrated financial markets in the region help mobilize domestic capital, raise the amount and productivity of investment, bolster competition in the financial sector, facilitate information flows, and improve corporate governance. They can also help make EAC a more attractive destination for both foreign and domestic investment by shoring up the liquidity of the region's capital markets and creating financing avenues for investors and issuers.

The services sectors are important for EAC's growing economy. As the region's markets expand, so does the share of services in the economy. Services are also a strong avenue for export growth. A dynamic service economy can make significant contributions towards the achievement of EAC's development objectives of economic diversification, investment, employment generation, poverty reduction and an overall improvement of social welfare.

When goods circulate freely, manufacturers can access this larger market competitively and consumers get better choices and better products.

## WHY MONITOR COMPLIANCE TO THE PROTOCOL?

The purpose of monitoring the implementation of regional integration arrangements is to ensure that the member countries comply with the assumed obligations. It touches on various policy areas, and can take place at different stages of integration and with various degrees of institutionalization.

In addition to being an element of 'good practise' in policy-making in general, in the context of regional integration, the need for monitoring is particularly relevant. It has been observed by many that although regional integration has a potential in the development of regional trade and in the promotion of economic growth, its actual contribution to growth and trade is not necessarily easy to demonstrate. This is often because of implementation problems, commonly related to domestic political factors, technical capacities in the government agencies, the multiplication of parallel and overlapping trade negotiation scenarios, and diverse and sometimes conflicting interests of various stakeholders.

Monitoring helps address some of these constraints and thus contributes to good regional governance practices, such as openness, transparency, participation, accountability, effectiveness, and appropriateness.

## WHAT THE SCORECARD MEASURES

The scorecard tracks de jure compliance with commitments by the EAC Partner States to enable a free cross-border movement of capital, services and goods. It provides an assessment of de jure compliance rather than de facto implementation of the integration commitments. The analysis is based on a review of 683 laws and regulations relevant to the common market (124 in capital, 545 in services and 14 in goods), along with key legal notices, reports and trade statistics. The following are the main regional integration commitments that are the focus of the scorecard (Table 1.1).

### Freedom of Movement of Capital

Article 24 of the EAC Common Market Protocol requires the Partner States to eliminate restrictions on the free movement of capital. That includes restrictions based on nationality, place of residence, current payments, and where capital is invested. Annex VI of the protocol identifies 20 operations that should be free from legal and regulatory encumbrances. These operations cover securities, credit, direct investment and personal capital transactions. The review of laws and regulations concerning movement of capital in the five EAC Partner States determined how they complied with these key obligations. The data is current as of September 30, 2013.

### Freedom of Movement of Services

Article 16 of the protocol guarantees the free movement of services supplied by nationals of EAC Partner States within the community. That includes supply of services from the territory of a Partner State to consumers in another Partner State, supply of services to consumers who have travelled abroad, foreign direct investment from one Partner State into another one, and temporary movement of professionals to supply services in another Partner State. Annex V of the protocol details the sectors covered by this agreement. The review of laws and regulations concerning movement of services determined how they complied with these requirements. It covers professional services (legal, accounting, architectural, and engineering), road transport, distribution (retail and wholesale), and telecommunication services. The data is current as of August 31, 2013.

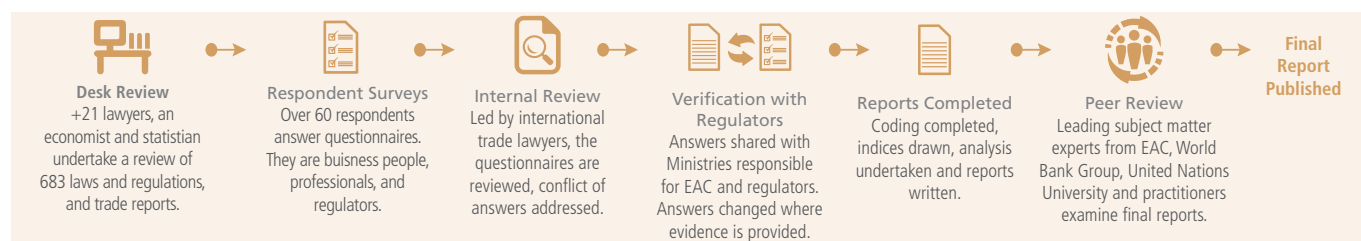
**Table 1.1 Scope of the East African Common Market Scorecard 2014**

Operations/Sectors Covered		Issues considered
Freedom of Movement of Capital	<ul style="list-style-type: none"> <li>Securities Operations</li> <li>Credit Operations</li> <li>Direct Investments</li> <li>Personal Capital Transactions</li> </ul>	<ul style="list-style-type: none"> <li>Ceilings on value of transactions for non-residents and non-citizens</li> <li>Discriminatory requirements for approvals for purchase or sale transactions</li> <li>Prohibition of non-residents to participate in identified classes of investments</li> <li>Mandatory deposit requirements by Central Banks</li> <li>Incentives extended only to domestic investors</li> <li>Discriminatory tax treatment</li> <li>Restrictions on ownership of firms</li> <li>Restrictions on transfer of securities</li> <li>Limitations on amount of credit obtainable from domestic financial institutions</li> <li>Restrictions to outward investment</li> </ul>
Freedom of Movement of Services	<ul style="list-style-type: none"> <li>Legal</li> <li>Accounting</li> <li>Architecture</li> <li>Engineering</li> <li>Retail</li> <li>Wholesale</li> <li>Telecommunications</li> <li>Road Transport</li> </ul>	<ul style="list-style-type: none"> <li>Nationality requirements</li> <li>Residency requirements</li> <li>Licensing and qualifications requirements</li> <li>Registration requirements</li> <li>Authorization requirements</li> <li>Technology transfer/training requirements</li> </ul>
Freedom of Movement of Goods	<ul style="list-style-type: none"> <li>Tariffs and equivalent measures on intra-regional trade</li> <li>Non-tariff barriers</li> <li>Application of the Common External Tariff</li> <li>Sanitary and phytosanitary standards and technical barriers to trade</li> </ul>	<ul style="list-style-type: none"> <li>Application of charges of equivalent effect to tariffs</li> <li>Sanitary and phytosanitary measures</li> <li>Technical Barriers to Trade</li> <li>Non-recognition of rules-of-origin certificates</li> <li>Perforation of the Common External Tariff</li> <li>Temporary adjustments to the Common External Tariff</li> </ul>

*Note: Air transport is considered separately from the overall analysis.*

*Source: EAC Common Market Protocol, EAC Common Market Scorecard Database*

**Figure 1.1 Data collection and analysis**



*Source: World Bank*

## Freedom of Movement of Goods

Under Article 5(2)(a) of the protocol, Partner States committed to eliminating tariff and non-tariff barriers to trade, establishing a common external tariff, and harmonizing and mutually recognizing certain trade standards. The Partner States are required to take all steps to achieve these obligations through national and regional laws and regulations. In addition, EAC customs laws bar Partner States from introducing measures inconsistent with these obligations. The review examined legal obligations arising from the four commitments above, and entailed a review of laws, regulations, legal notices and trade statistics relevant to the movement of goods in the EAC. The data is current as reported by the EAC Time Bound Program end June 2013, and trade statistics as at October 30, 2013

## WHAT THE SCORECARD DOES NOT MEASURE

The EAC Common Market Scorecard 2014 has key limitations that should be kept in mind by the readers.

**Does not measure de facto compliance.** The scorecard measures de jure compliance, that is, whether a Partner State's laws and regulations comply with its commitments under the protocol. It does not measure de facto compliance, referring to how these commitments are implemented in practice. In some instances, for example in the goods scorecard, de facto information is reviewed only as a means to give effect to or enquire on the implementation of a de jure obligation.

**Does not test the impact or severity of the restrictions, barriers and non-conforming measures.** The scorecard lists the number and types of implementation constraints to the protocol, but does not establish their impact or severity. In limited cases within the scorecard where severity is considered, such as in the capital scorecard, this is limited to indicating which restrictions to the movement of capital affect several operations at once, and not the economic impact of the restrictions.

**Focuses only on national laws.** The scorecard only measures compliance of national laws to commitments under the protocol. It does not measure compliance of bi-lateral and multi-lateral agreements entered into by the Partner States to the protocol.

### Box 1.1 EAC Common Market Scorecard Reference Group

The development of the *EAC Common Market Scorecard 2014* was led by the EAC Common Market Scorecard Reference Group, with technical assistance from the World Bank Group. The reference group guided and authorized the overall scope of the project, methodology, data collection process, findings and recommendations, and the project's communications strategy.

This group was led by the EAC Secretariat, with membership from the ministries responsible for East African Community affairs in the Partner States. EAC Secretariat representatives were appointed by the Deputy Secretary General (Planning & Infrastructure) and those from the Ministries responsible for EAC were appointed by their Permanent Secretaries.

Other members of the Reference Group were: East African Business Council; Institute for Economic Affairs; United Nations University; TradeMark East Africa; and the World Bank Group.

All decisions of the reference group were reached through consensus. Members are acknowledged in the "acknowledgments" section of this report.

The reference group was convened on six occasions:

- Measuring Regional Integration (Nairobi, Sep. 2011)
- Understanding the Common Market Protocol obligations (Kampala, Dec. 2011)
- Focusing on legal obligations, selection of sectors, and authorising a pilot scorecard on Freedom of Movement of Capital (Arusha, Oct. 2012)
- Endorsement of Freedom of Movement of Capital Pilot Scorecard (Arusha, Feb. 2013)
- Endorsement of Freedom of Movement of Services Scorecard (Dar es Salaam, May 2013)
- Endorsement of Freedom of Movement of Goods Scorecard (Nairobi, Sep. 2013)

In addition, the findings of the scorecard were presented to the EAC Secretary General, Deputy Secretaries General, Directors and Executives of the EAC Secretariat on 4th February, 2013 in Arusha, Tanzania.

Source: EAC Secretariat, World Bank Group

**Is not a survey of perceptions of investors or companies.** The scorecard indicators are based on legal facts and expert responses collected through desk research by licensed lawyers in the Partner States,

questionnaires completed by industry experts, and verification with public sector respondents.

The main purpose of the scorecard is to measure compliance of selected commitments to the protocol—and in so doing, facilitate policy dialogue by identifying good practices, track reforms, facilitate sharing of reform experiences, and enable research and analysis on the links between reforms in measured areas and desired outcomes.

*"EAC Partner States will remove existing restrictions on the movement of capital" : Article 24, EAC Common Market Protocol*



# FREEDOM OF MOVEMENT OF CAPITAL

Article 24 of the EAC Common Market Protocol requires the region's Partner States to eliminate restrictions on the free movement of capital. That includes restrictions based on nationality, place of residence, current payments, and where capital is invested, because such restrictions undermine realization of the common market. Annex VI of the protocol identifies 20 operations that should be free from legal and regulatory encumbrances:

- Securities operations (operations 1 to 14). These operations include quoted and unquoted securities, some collective investment schemes, money market instruments, and derivatives.
- Credit operations (operations 15 and 16). These cover external borrowing and lending by residents.
- Direct investment operations (operations 17 to 19). These facilitate direct international acquisitions, greenfield investments, establishment of branches of enterprises, re-investment of profits in enterprises, outward direct investment, and repatriation of profits from asset sales.
- Personal capital operations (operation 20).

This chapter is based on a review of 124 laws and regulations on the

movement of capital in the five EAC Partner States as of September 30, 2013, to determine how they complied with these 20 operations. The approach was based on a methodology developed by the World Bank Group and approved by the EAC Scorecard Reference Group. Efforts involved desk research as well as questionnaires sent to and meetings held with commercial and investment banks, brokerage houses, stock exchanges, central banks, capital market authorities, investment lawyers, and World Bank Group staff.

## FINANCIAL INTEGRATION IN THE EAST AFRICAN COMMUNITY

In recent decades foreign investment has flourished in many developing countries—particularly those with healthy capital markets. Strong financial markets also help mobilize domestic capital and can raise the amount and productivity of investment, bolster competition in the financial sector, facilitate information flows and improve corporate governance.

Financial integration will help make the EAC a more viable destination for both foreign and domestic investment by

### Box 2.1 Key Commitments and Institutions: Free Movement of Capital

**Article 24, EAC Common Market Protocol:** Requires elimination of restrictions on the free movement of capital including restrictions based on nationality, place of residence, current payments, and where capital is invested:



**Key Regional Institutions:** Capital Markets, Pensions, and Insurance Committee under the EAC Council of Ministers; East African Securities Regulators Association; East African Securities Exchanges Association; and EAC Monetary Affairs Committee.

Source: EAC Common Market Protocol, EAC Secretariat.

bolstering the liquidity of the region's capital markets and creating financing avenues for investors and issuers.

Regionalization will also boost research in EAC markets and give its Partner States more and better options for long-term financing—an especially crucial need for developing the infrastructure linking them. Deeper financial markets will also raise standards for corporate governance.

Financial integration in the EAC will require cooperation in several areas, including building market infrastructure and common laws and regulations. The protocol envisages some financial integration by 2015, with Article 24 committing to liberalization of cross-border transactions such as bank activities, direct investment, purchases and sales of securities, and personal capital transactions.

The EAC has developed a framework for cooperation and harmonization. Policy-making, regulatory and legal issues, and structural and institutional matters are guided by the Capital Markets, Pensions, and Insurance Committee under the EAC Council of Ministers. The East African Securities Regulators Association and East African Securities Exchanges Association facilitate cooperation on market infrastructure and regulation, while the EAC Monetary Affairs Committee aims to enhance cooperation among the region's central banks.

The main downside to financial integration is the risk of contagion and reducing oversight influence of domestic regulators. Even then, the benefits of integration outweigh its costs, given that well managed cooperation among regulators, and prudent regulation and supervision across the domestic economy could stave off such shocks or minimize their effects. Ultimately, financial integration contributes to wider economic integration across the EAC, particularly in the movement of goods and services.

**Figure 2.1 Why an Integrated Financial Market matters for EAC**



Source: World Bank, UNECA

## FINDINGS

- Kenya makes it easiest to move capital across the EAC. Tanzania and Burundi make it hardest.
- Only 2 out of the 20 capital operations are free in all Partner States. These are external borrowing by residents and repatriation of proceeds from sale of assets. All other 18 operations have at least 1 Partner State restricting the operation.

- All EAC Partner States have restrictions that affect inward investment from other EAC economies.
- Combined, EAC Partner States need to repeal provisions in at least 25 laws and regulations to fully comply with the protocol. Rwanda has the most (8); Burundi has the fewest (2).
- Capital controls are the most severe restriction on the movement of capital across the EAC, affecting the majority of transactions covered under the protocol. Burundi's controls restrict 7 operations and Tanzania's restrict 12.
- Restrictions on the movement of capital have an enormous impact on direct investment and securities, with no single operation in these areas being restrictions-free across the bloc. This undermines efforts by EAC Partner States to expand their private sectors.
- Burundi makes it the most difficult to conduct securities operations. Its restrictions affect 8 of the 14 securities operations covered by the protocol, and lack of a regulatory framework affects 5 others. (That said, no EAC state has developed regulation for derivatives.)
- Burundi and Tanzania make it more challenging to undertake credit operations, by restricting lending abroad by their residents. Kenya, Rwanda, and Uganda impose no such restrictions.
- 4 EAC Partner States—Burundi is the only exception—have introduced exemptions to the protocol without following requirements for notification to other Partner States or the EAC Secretariat. At least 9 such exemptions are in place, guided by concerns about prudential supervision, public policy, money laundering, financial sanctions agreed to by Partner States, and financial disturbances.
- Despite signing the protocol in 2010, and contrary to the requirements of Article 24, new restrictions are evident on the movement of capital in some laws.
- Restrictions on the movement of capital affect more than just moving capital across the EAC. Some restrictions remain during the life of the investment, favoring domestic investors. Uganda for example reserves a set of incentives available only to domestic investors.

## RECOMMENDATIONS

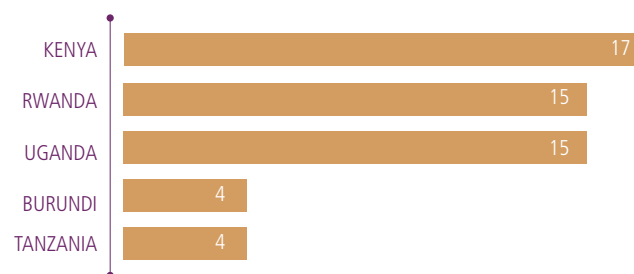
- Regulators should move away from merit-based decision-making (that is, using the perceived likelihood of an investment's success as a basis for authorizing it) and toward a disclosure approach (to ensure that sufficient information about a prospect is disclosed so that potential investors can make informed judgments about its attractiveness).
- The EAC Secretariat and Partner States need to enforce the notification mechanism, which will create a transparent and credible system for monitoring the free movement of capital in the EAC. When Partner States impose restrictions on the movement of capital, they should always be temporary. Exemptions allowed under Article 25 (1) of the protocol should be applied only when essential.
- To unleash regional capital for private sector growth, the EAC should prioritize the rollback of laws, regulations, and investment codes that impede investment.
- Capacity building is required for effective financial integration, including the development of market intermediaries, stronger coordination of securities markets, and more investment in public awareness.

## WHO MAKES IT EASIEST TO MOVE CAPITAL — AND WHO MAKES IT HARDEST?

Kenya, with 17 of 20 unrestricted operations, makes it easiest for capital to move across EAC Partner States. Burundi and Tanzania, with only 4 of the 20, make it hardest.

One restriction can affect several operations. The capital controls in Burundi and Tanzania limit several operations (see below). It is also possible for several restrictions to be flagged within one operation. For example, inward direct investment is restricted in Kenya by laws such as the Investment Promotion Act (which requires foreign investors to have an investment certificate) and Insurance Act (which requires that at least a third of controlling interest in an insurance firm be owned by the Kenyan government or citizens).

**Figure 2.2 Out of 20 capital operations, how many are open in each Partner State?**



*Note: There are 20 operations covered by the EAC Common Market Protocol. Where one or more restrictions are found affecting an operation, it is marked as "restricted." Where none are found, it is marked "open." Where there is no regulatory framework governing an operation, it is marked as a restriction.*

*Source: EAC Common Market Scorecard Database*

## Which laws and regulations most impede the movement of capital?

Capital controls inhibit some residents from benefiting from the increased investment opportunities of financial integration in the EAC. For example, as at January 2014, the initial public offerings (IPOs) of Bralirwa, Bank of Kigali, and Umeme have had positive share price increases. But stringent capital controls kept Burundian and Tanzanian investors from participating in this upside as much as their EAC peers.

## Securities

EAC securities markets offer a range of products, including company stocks traded in primary and secondary markets, treasury bills and bonds and corporate bonds. Still, they lag behind some African securities markets—such as Egypt, Morocco, Nigeria, and South Africa—in terms of size and depth. Regionalization could help EAC capital markets achieve economies of scale, expand the pool of investors, increase the number and diversity of issuers and products, and strengthen corporate governance.

**Table 2.1 What capital controls in Burundi and Tanzania restrict movement of capital the most?**

	Restriction	Operations restricted	
Tanzania	Bank of Tanzania Foreign Exchange Circular 6000/DEM/EX.REG/58, issued on September 24, 1998	11	Restricts outward direct and portfolio investments, foreign lending favoring nonresidents, acquisition of foreign real estate, operation of offshore foreign currency accounts by residents, and participation by non-residents in domestic money markets and capital markets.
Burundi	Foreign Exchange Regulation, issued on June 10, 2010	7	Requires that residents obtain Central Bank approval to buy foreign shares or securities, lend or invest abroad.
Tanzania	Foreign Exchange Regulations, G.N. No. 629 of 1998, regulation 9 (2)	4	States that any Tanzania resident can acquire, sell or transfer to any person within or outside the country any security or coupon on which capital moneys, dividends, or interest are paid in foreign currency—but only if the security or coupon was bought solely with externally acquired funds and the Bank of Tanzania is notified.

*Note: Total number of operations covered in EAC Common Market Protocol are 20.*

*Source: EAC Common Market Scorecard Database*

Among EAC members, Tanzania and Burundi make it the most difficult to conduct securities operations.

Tanzania's restrictions affect 10 of the 14 securities operations highlighted in Annex VI of the protocol, and a lack of regulation for derivatives affects 2 others. Only 2 operations in Tanzania (foreign purchases and sales of money market instruments by residents and domestic purchases of collective investment schemes by nonresidents) are free of restrictions.

Burundi's restrictions affect 8 securities operations, and it does not have regulations for 5 others, mostly related to securities, including derivatives. Only 1 operation related to purchases and sales of money market instruments by nonresidents is free of restrictions. Underdeveloped securities regulation is not unusual for an economy of Burundi's size (\$2.4 billion in 2012). Globally, in 2012 only 9 countries with GDP under \$5 billion operated their own exchanges, while 6 others belonged to regional exchanges.

Rwanda places restrictions on 2 securities operations: foreign purchases and sales of money market instruments by residents and domestic purchases and sales of money market instruments by nonresidents.

In Uganda a lack of clarity on the rate for withholding tax for interest payments on government securities, and a higher rate for non-residents on withholding tax for dividend payments restricts 2 operations.

Kenya does not place restrictions on securities transactions.

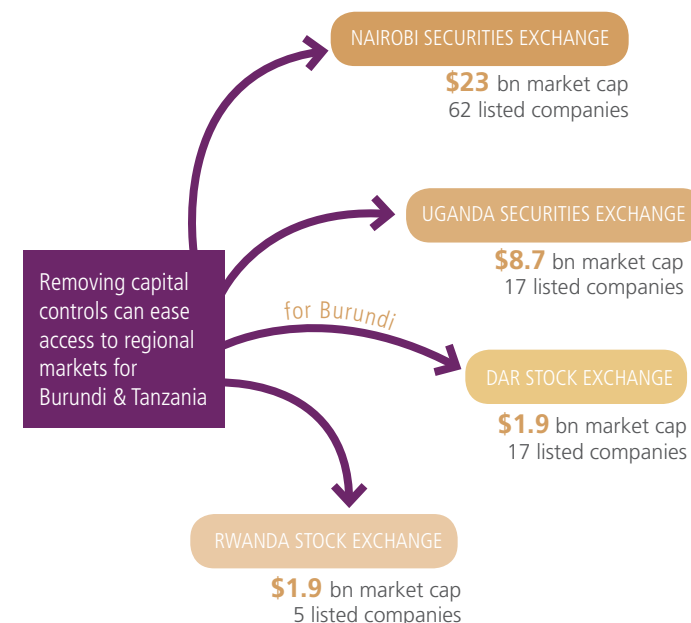
No EAC country has regulation on derivatives.

**Figure 2.3 Does Burundi need to develop a stock exchange?**



Source: World Bank

**Figure 2.4 Capital controls restrict participation in regional markets and makes domestic markets difficult to access**



Capital controls restrict Burundi and Tanzania investors from investing in other EAC markets. And for Tanzania, its regulatory framework restricts access to its stock exchange for investors from the EAC region.

Note: Market capitalisation as at 23rd January, 2014

Source: NSE, USE, DSE, RSE

**Table 2.2 Which securities operations covered by the protocol are restricted?**

		√ - Open    X or "No Framework" - Restricted				
SECURITIES OPERATIONS		Kenya	Uganda	Rwanda	Tanzania	Burundi
1	Purchase by residents of foreign shares or other securities of a participating nature	√	√	√	X	X
2	Local purchase by non-residents of shares or other securities of a participating nature	√	X	√	X	X
3	Participation of residents in IPOs in foreign capital markets	√	√	√	X	X
4	Local sale by non-residents of foreign shares or other securities of a participating nature	√	√	√	X	No Framework
5	Foreign sale by residents of shares or other securities of a participating nature	√	√	√	X	X
6	Local purchase of bonds and other debt instruments by non-residents	√	X	√	X	X
7	Local sale of bonds and other debt instruments by non-residents	√	√	√	X	X
8	Sale of bonds and other debt instruments abroad by residents	√	√	√	X	X
9	Local purchase or sale of money market instruments by non-residents	√	√	X	X	√
10	Foreign purchase or sale of money market instruments by residents	√	√	X	√	X
11	Local purchase by non-residents of collective investment schemes	√	√	√	√	No Framework
12	Local sale or issue by non-residents of collective investment schemes	√	√	√	X	No Framework
13	Sale or issue of derivative products locally by non-residents	No Framework	No Framework	No Framework	No Framework	No Framework
14	Sale or issue of derivative products abroad by residents	No Framework	No Framework	No Framework	No Framework	No Framework
<b>Number of Open Securities Operations</b>		<b>12</b>	<b>10</b>	<b>10</b>	<b>2</b>	<b>1</b>

Source: EAC Common Market Scorecard Database

**Credit**

The credit operations covered by the protocol are foreign borrowing and lending by residents. Burundi and Tanzania make it difficult for their residents to lend abroad because of their capital controls. Kenya, Rwanda, and Uganda impose no restrictions on credit operations across EAC borders.

**Table 2.3 Which credit operations covered by the protocol are restricted?**

		√ - Open    X - Restricted				
		Kenya	Rwanda	Uganda	Burundi	Tanzania
15	External borrowing by residents	√	√	√	√	√
16	Lending abroad by residents	√	√	√	X	X
<b>Number of open Credit Operations</b>		<b>2</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>1</b>

Source: EAC Common Market Scorecard Database

**Direct investment**

Direct investment is influenced by many factors, including a country's competitiveness, markets, natural resources, and FDI policies. But potential returns are the top concern of investors—so countries with weaker laws, policies, and regulations sometimes attract more FDI than do those with better ones.

Still, transparent and investor-friendly laws and regulations on FDI can help increase it. Countries with these features can also attract more patient capital across diverse sectors, with strong spillover effects such as providing jobs, increasing economic sophistication, and hedging against industry-specific shocks.

For the EAC to become a more appealing destination for FDI, it should limit burdens on moving such capital into the region. Similarly, capital from

**Table 2.4 Examples of Restrictions on Securities Operations**

Tanzania	Regulations 2, 3 and 7 of the Capital Markets and Securities (Foreign Investors) Regulations 2003	<p>These regulations define foreign investors to include those from EAC Partner States, and in subsequent clauses impose limits based on this definition. These limits include a purchase ceiling of 60% of issued securities for foreign investors, a purchase ceiling of 1% of issued securities for a single foreign investor or by two or more foreign investors jointly, a purchase ceiling of 5% of issued securities for institutional foreign investors.</p> <p>These regulations also require that a foreign investor shall, prior to any sale of its shareholding intimate its intention to sell to the Authority and the authority shall consider and direct the sale to proceed or otherwise impose conditions on the sale as the Authority considers necessary for investor protection.</p> <p>Noncitizens, except financial institutions, are also prohibited from participating in the purchase or sale of government securities under regulation 3 (2).</p>
Burundi	Article 16 (2) of the Law 1/01 of 9/02/2012 amending law NO 4/03 of 19/02/2009 on the organization of the privatization of companies with public participation, services, or works	Article 16 authorizes the Interministerial Privatization Committee to establish contracts with domestic or foreign individual and entities. Then, based on the views of the Service in Charge of State Enterprises, the committee can decide whether some or all securities should be sold only to Burundian citizens or companies. It also establishes rules and procedures for subsequent transfer of these securities to foreign investors.
Uganda	<p>Income Tax (Amendment) Act 2006 Part V Schedule 3 Sections 117 and 118,</p> <p>The Income Tax (Amendment) Act 2012, Part V Schedule 3 Sections 117 and 118 (3)</p>	<p>Residents receive a potentially lower withholding tax rate than do nonresidents for dividend payments on listed securities.</p> <p>The withholding tax rate applicable for interest payments on government securities to a resident person is specified, but not that for non-residents, thus generating uncertainty.</p>
Rwanda	Law NO. 55/2007 of 30/11/2007 Governing the Central Bank of Rwanda, Article 55	The law potentially allows the Central Bank to intervene in money markets, especially for lending, borrowing, selling, or buying liquid assets, as well as pensions and all other negotiable instruments.
Kenya	No restrictions	No restrictions

Source: EAC Common Market Scorecard Database

Partner States should be easy to invest across EAC borders. The protocol also requires that investors based in the EAC be able to repatriate proceeds from sales of assets without restrictions. This assurance encourages higher investment in recipient economies.

The protocol covers three direct investment operations: inward direct investment, outward direct investment, and repatriation of profits from sale of assets. Although all EAC Partner States impose no restrictions on repatriation of proceeds from asset sales within the region, they all impose restrictions on inward direct investments.

Among the Partner States, Burundi and Tanzania impose restrictions on both inward and outward direct investment. Kenya, Rwanda and Uganda restrict inward direct investment.

**Table 2.5 Which direct investment operations covered by the protocol are restricted?**

		√ - Open    X - Restricted				
		Kenya	Rwanda	Uganda	Burundi	Tanzania
17	Inward direct investments	X	X	X	X	X
18	Outward direct investments	√	√	√	X	X
19	Repatriation of proceeds from the sale of assets	√	√	√	√	√
<b>Number of open Credit Operations</b>		<b>2</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>1</b>

Source: EAC Common Market Scorecard Database.

## Personal Capital Operations

Although all EAC Partner States—except Tanzania—require that all amounts above \$10,000 should be declared on exit or entry, they do not restrict the operation. Tanzania places a \$10,000 limit for residents travelling

**Table 2.6 Examples of Restrictions on Inward Direct Investment**

Burundi	When state enterprises are privatized, a percentage of their ownership can be reserved for Burundians.
Kenya	At least one-third of the controlling interest in insurance companies registered in Kenya must be held by citizens, by a corporate body whose shares are wholly owned by citizens, or by the government.  At least 60% of the paid-up capital of insurance brokerages must be owned by citizens, by a corporate body whose shares are wholly owned by citizens of Kenya, or by the government.  At least 30% of equity stake in telecommunications investments have to be Kenyan owned.
Rwanda	The Law on Investment and Export Promotion and Facilitation requires more minimum capital from Tanzanian investors than from majority investors from Rwanda or other EAC Partner States.  Law Governing Telecommunications allows refusal of a license if the regulatory body reasonably believes that competition in the telecommunications sector can be adversely affected.
Tanzania	The 1997 Investment Promotion Act distinguishes between foreign and domestic investors. Businesses that can receive the benefits and protection provided under this Act are those that, if wholly owned by a foreign investor or a joint venture, have capital investment of at least \$300,000. If domestically owned, capital investment must be at least \$100,000.  Foreign investors can obtain credit from domestic banks and financial institutions for such businesses up to the limit established by the Bank of Tanzania in consultation with the Tanzania Investment Centre. Such credit must be used solely for the purposes specified in the loan application, and its use can be monitored by the bank granting the loan.
Uganda	Under Investment Code Act Cap 92, foreign investors cannot engage in crop or animal production.  To engage in trade, foreign investors must deposit \$100,000 at the Bank of Uganda, to be used for imports or direct purchases of goods for their businesses.  Foreign investors qualify for incentives under the Code if they make a capital investment of \$500,000 (though with many exemptions). Domestic investors receive such incentives with \$50,000 in investment.

Source: EAC Common Market Scorecard Database

abroad with foreign currency, including to other Partner States. Tanzania also provides that funds due from assurance policies taken outside Tanzania may only be transferred into or from Tanzania if servicing of such policies is done using externally generated funds.

**Table 2.7 Who restricts personal capital transactions covered by the protocol?**

		✓ - Open    X - Restricted				
		Kenya	Uganda	Rwanda	Burundi	Tanzania
20	External borrowing by residents	✓	✓	✓	✓	X
		1	1	1	1	0

Source: EAC Common Market Scorecard Database

### New restrictions after signing the protocol

The protocol entered into force in July 2010. Article 24 (c) of the protocol requires Partner States not to introduce new restrictions on the movement of capital and payments connected with such movement. Partner States have applied measures inconsistent to this regulation.

### Notification requirements

Article 25 (1) of the protocol allows Partner States to restrict the freedom of movement of capital for reasons of prudential supervision, public policy, money laundering, and financial sanctions agreed to by Partner States. But Article 25 (2) of the protocol requires Partner States that adopt any of the restrictions stipulated in Article 25 (1) to notify the EAC Secretariat and other Partner States and furnish proof that a restriction was reasonable and justified. This approach was designed to allow for discussion of the proposed actions, taking into account the views of state and nonstate actors that might be affected by them, and for monitoring to ensure that such restrictions last only as long as needed.

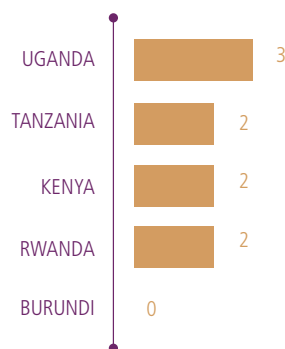
Yet no EAC Partner State has complied with these notification requirements. Uganda has 3 exemptions, Tanzania, Kenya and Rwanda each 2 and Burundi none.

**Table 2.8 Examples of Restrictions effected after signing the Protocol**

Rwanda	<p>Applicants requesting licensing to participate in the Central Securities Depository may be refused if their domestic law does not offer reciprocal market access under the same conditions to participants governed by Rwandan Law.</p> <p>Capital Markets Licensing Requirements of 2012 require applicants for approval of a foreign securities exchange to demonstrate that adequate arrangements exist for cooperation between the Authority and those responsible for the supervision of the applicant in the country in which the applicant's head office is situated.</p>
Tanzania	<p>The Electronic and Postal Communications (Licensing) Regulations of 2011 requires applicants for a license to air broadcasting to submit a list of shareholders with a minimum of 51% local ownership. The regulations also require that prior to transfer of shares, a licensee shall be required to submit to the authority proof that the minimum local shareholding requirement is maintained.</p>
Uganda	<p>The Income Tax (Amendment) Act 2012 notifies that the withholding tax rate applicable for interest payments on government securities to a resident person is 20%. No rate is specified for non-residents which generates uncertainty.</p>

Source: EAC Common Market Scorecard Database

**Figure 2.5 Who applies the most exemptions under the protocol?**



Note: None of the Partner States with restrictions have complied with notification requirements.

Source: EAC Common Market Scorecard Database

Partner States need to develop guidelines to regulate the content for notifications. This may include standard notification instruments, reaction forms, and criteria for classifying notifications. Guidelines should also include operating arrangements, such as deadlines for steps in the notification process. The public should have access to exceptional measures, and all such restrictions should be temporary.



*"The Partner States guarantee the free movement of services and service suppliers." : Article 16, EAC Common Market Protocol*



# FREEDOM OF MOVEMENT OF SERVICES

Services are vital to every economy's growth and competitiveness. By 2011 services accounted for nearly two-thirds of gross domestic product (GDP) across developing and industrial countries. Services are also becoming a powerhouse for export growth. Between 1980 and 2012 global exports of services grew nearly 8% a year.

Services are a dynamic sector, experiencing constant evolution. New services are created all the time, and digitalization has enabled differentiation between final and intermediate services. Unlike goods, services are intangible and cannot be stored. These features have profound implications for how services are traded.

Trade in services is a relatively new topic in international trade law. The first normative international framework entered into force in 1995 with the General Agreement on Trade in Services (GATS) of the World Trade Organization (WTO). All WTO members are signatories to GATS. This treaty was developed to extend the multilateral trading system to services just as the General Agreement on Tariffs and Trade (GATT) did for goods. GATS increases transparency and legal predictability for countries looking to attract trade and investment. Under GATS, member countries can choose which services to liberalize, which mode of supply will apply to each, and the extent and speed of liberalization. This system is also applied in the EAC Common Market Protocol (CMP).

## Box 3.1 Findings

- A review of more than 500 key sectoral laws and regulations of the EAC Partner States identified at least 63 measures inconsistent to commitments to liberalize services trade within the EAC. The review focused on professional services (legal, accounting, architectural, and engineering), road transport, distribution (retail and wholesale), and telecommunications legislation.
- Professional services account for nearly three-fourths (73%) of the 63 identified measures, led by engineering (16), accounting (14), and legal services (10). The other measures involve road transport (15) and wholesale distribution (2).
- Telecommunications and retail were the only studied sectors with no identified measures inconsistent to the protocol. However, restrictions on services trade within the EAC still exist in these sectors, and they are scheduled for elimination before 2015.
- The measures are most common in Tanzania (17) and Kenya (16), followed by Rwanda (11), Uganda (10), and Burundi (9). Burundi's strong performance on the scorecard is partly due to the fact that some of its sectors are not yet regulated through sectoral legislation.
- About three fourths of the identified measures are national treatment related

and discriminate against services or service suppliers of the EAC Partner States. The rest of them affect the Most Favored Nation principle, involving preferences for service suppliers outside of EAC.

- Nearly all inconsistent measures concern multiple modes of services supply, including presence of natural persons (Mode 4) and commercial presence (Mode 3). No measures affect consumption abroad (Mode 2).
- Across the Partner States, 75% of measures were identified in laws, 15% in administrative guidelines, and 10% in regulations.
- Inconsistent measures were found not only in sectoral legislation, but also in laws that cut across all sectors. A partial, complementary review of the Partner States' principal investment and company laws identified 11 additional measures in the EAC region.
- None of the Partner States have been complying with their obligation to regularly inform the EAC Council of any new laws and administrative guidelines that affect trade in services.

Source: EAC Common Market Scorecard Database

Services are carefully covered by domestic regulation. Liberalization does not mean that regulation is eliminated, but that it adheres to international norms and principles of fairness and nondiscrimination, including the national treatment and most favored nation principles.

This chapter assesses the progress made by the EAC Partner States regarding their commitments to liberalize cross-border services trade. In the CMP, the Partner States agreed to progressively remove existing restrictions and not to introduce any new restrictions on the provision of services.

The analysis presented in this report measures the extent to which EAC Partner States' laws and regulations are complying with these commitments to international norms and principles of fairness and nondiscrimination—comprising national treatment and most favored nation treatment—in the trade of services.<sup>1</sup>

The goal of this analysis was to identify specific legal measures that are inconsistent to commitments to the protocol. This was done in order to enhance peer learning and help develop the EAC Common Market. The review was conducted between June and August 2013, and focused on professional services (legal, accounting, architectural, and engineering), road transport, distribution (retail and wholesale), and telecommunications services.

As explained in the methodology section, these sectors were selected based on their contributions to GDP and relatively high incidence of legal restrictions to cross-border trade. They are also key for Africa's sustained growth (Box 3.2).

This report shows that none of the Partner States has fully liberalized trade in services as agreed under the CMP. The analysis, which covered more than 500 laws and regulations for the selected services, identified 63 such inconsistent measures, also called nonconforming measures (NCMs).

### Box 3.2 Current state of selected services sectors in Sub-Saharan Africa



**Professional Services** are crucial to modern economic activity, whether from accountants, lawyers, engineers, or a variety of others. For example, evidence from East Asia shows that small firms that used professional services saw increased labor productivity. As in most of the world, professional services are heavily regulated in East Africa. But some of these regulations are discriminatory, affecting the entry and operations of service providers in areas such as licensing, education requirements, restrictions on the number of suppliers, and mandatory membership in professional associations.



**Distribution Services** play a significant role in East African economies, employing more than 10% of the region's active workforce including many informal, unskilled, female, and part-time workers. The sector has enormous potential for increasing food security and reducing rural poverty. Modern distribution and procurement systems enable small farmers to sell their products to more profitable grocery stores. Consumers also benefit—getting better, cheaper products. East Africa's estimated 138 million people offer a vast retail market, potentially benefiting consumers, producers, and suppliers.



**Telecommunications** improvements can dramatically support economic growth. Deloitte and Touche found that a 10% increase in telephone penetration increases GDP growth by 1.2%. Developing countries with fully liberalized telecommunications tend to grow almost 2% faster than those without. In East Africa reforms in information and communication technology (ICT) have led to faster growth in the sector than in the overall economy. Kenya's telecommunications sector grew 21% a year between 2000 and 2005. As a result, the sector's contribution to GDP rose from 1.4% to 2.5% in Kenya and from 1.0% to 4.2% in Uganda during that period.



**Transport** is a perpetual problem in Sub-Saharan Africa. Missing rail links and potholed roads hinder economic growth. Intra-regional trade accounts for just 13% of total commerce, compared with 53% in Asia. A recent article in *The Economist* reports that transport costs can make up 50-75% of the retail price of goods in Malawi, Rwanda and Uganda. Shipping a car from China to Tanzania on the Indian Ocean coast costs \$4,000, but getting it from there to nearby Uganda can cost another \$5,000. In air transport, Africa has some of the world's most protected air transport markets. As a result, the continent has a small (though growing) share of the global aviation market. As is common, many EAC countries protect their national carriers.

Source: EAC Common Market Scorecard Database

The term "nonconforming measure" refers to specific provisions in laws and regulations that negatively affect the liberalization commitments undertaken by each Partner State in Annex V of the CMP. Nearly all of the 63 identified NCMs affect the temporary entry of service providers. Two-thirds involve foreign direct investment.

A review of laws and regulations on air transport also found 37 additional NCMs. Air transport was considered separately given that it is largely regulated on a bilateral level and countries' laws includes a large number of NCMs distorting the overall analysis.

<sup>1</sup>Market access measures were not analyzed because the CMP does not explicitly define this obligation.

In the EAC, air transport NCMs commonly grant monopoly rights to domestic carriers and give preferential treatment to citizens and domestic businesses when registering aircraft, issuing operator certificates, awarding routes, and imposing airport charges on passengers.

NCMs were found not only in sectoral legislation. A complementary analysis of key investment and company laws that apply cross-sectorally identified 11 additional NCMs. Most NCMs were discriminatory requirements related to licensing, certification, nationality, and qualification. Tanzania and Uganda accounted for three-fourths of these 11 NCMs.

## FINDINGS

The 63 NCMs identified in the laws and regulations for key services in EAC Partner States affect the national treatment and most favored nation (MFN) principles that these countries committed to under Annex V of the CMP. These NCMs are most common in Tanzania (which has 17) and Kenya (16), followed by Rwanda (11), Uganda (10), and Burundi (9) (Table 3.1). Burundi's strong performance on the scorecard is partly due to the fact that some of its sectors are not yet regulated through sectoral legislation; the country's 9 NCMs affect only accounting and legal services.

**Table 3.1 Number of nonconforming measures (NCMs) in the EAC Partner States**

	No. of NCMs	Share of NCMs
Tanzania	17	27%
Kenya	16	25%
Rwanda	11	18%
Uganda	10	16%
Burundi	9	14%
<b>Total</b>	<b>63</b>	<b>100%</b>

Source: EAC Common Market Scorecard Database

Professional services account for nearly three-fourths (73%) of the 63 identified NCMs, led by engineering (16 NCMs), accounting (14 NCMs) and legal services (10 NCMs). The other NCMs for major services involve road transport (15 NCMs) and wholesale distribution (2 NCMs). Telecommunications and retail were the only studied sectors with no identified NCMs (Table 3.2). However, legal restrictions on services trade within the EAC still exist in these sectors, and they are scheduled for elimination before 2015.

**Table 3.2 Number of nonconforming measures (NCMs) in selected services sectors**

	No. of NCMs	Share of NCMs
Professional services	46	73%
Road transport	15	24%
Distribution services	2	3%
Telecommunications	0	0%
<b>Total</b>	<b>63</b>	<b>100%</b>

Source: EAC Common Market Scorecard Database

## Engineering

No other analyzed sector accounted for as many NCMs as engineering (Table 3.3). Burundi is the only Partner State that does not have an NCM in this sector—not a surprise given that it has no laws regulating it. The number of engineering NCMs in other EAC countries ranges from 1 in Uganda to 7 in Kenya. All but 1 cite measures inconsistent to the national treatment principle, and nearly all of them affect temporary movement of people.

In Kenya, for example, the 2011 Engineers Act includes multiple discriminatory provisions affecting foreign persons and legal entities in their provision of engineering services.

In Rwanda, foreigners applying to provide engineering services must hold a required degree, be a member of an institute of such professionals in their home countries, and, importantly, be from a country that has entered into bilateral agreements allowing Rwandans to practice these professions.

Uganda blocks foreigners from registering as engineers, and Tanzania does not allow noncitizens to register as consultants.

**Table 3.3 NCMs in Professional Services**

Sub-sector	Engineering services	Accounting, Auditing and Book-keeping services	Legal services	Architectural services	Total NCMs in professional services
Kenya	7	0	3	1	<b>11</b>
Tanzania	6	4	n/a	n/a	<b>10</b>
Burundi	0	5	4	0	<b>9</b>
Rwanda	2	4	1	2	<b>9</b>
Uganda	1	1	2	3	<b>7</b>
<b>Total</b>	<b>16</b>	<b>14</b>	<b>10</b>	<b>6</b>	<b>46</b>

Source: EAC Common Market Scorecard Database

## Accounting

Accounting also attracted a relatively large share of NCMs. 5 of Burundi's 9 NCMs affect accounting, while Rwanda and Tanzania each have 4. All but 2 of the region's NCMs in accounting are inconsistent to national treatment principles.

In Burundi every financial institution must retain an auditor from an accounting or auditing firm. The auditor must be approved by the Central Bank and live in Burundi. Tanzania imposes stringent registration requirements on accountants that involve several government entities. Certified public accountants in Tanzania must be professionally qualified by both domestic and foreign bodies. To become an accountant in Uganda, applicants must have extensive experience and belong to 1 of 15 international accounting institutes or associations.

## Legal

Tanzania is the only Partner State that did not include legal services in its schedule of commitments. All the other Partner States have NCMs affecting their liberalization commitments in this area. 4 of Burundi's 9 NCMs involve legal services. Kenya has 3, Uganda 2, and Rwanda just 1.

For example, Burundi does not allow trainee advocates to practice law unless they are citizens or, if foreigners, comply with international agreements or a reciprocity clause. Kenya does not allow foreigners to practice law unless they work with a domestic counterpart, and foreigners cannot sign or file pleas in court. In Rwanda foreigners cannot practice law unless they are admitted to the Bar Association on the condition of reciprocity or in accordance with international agreements. Aspiring lawyers in Uganda must be citizens or residents and, if working abroad before applying, have been legal practitioners for at least 5 years in a country approved by the Law Council. If approved, they must work with a domestic counterpart or as a state attorney for at least six months. In addition, foreign applicants must have lived in Uganda for at least a year.

## Architecture

Architectural services have the fewest NCMs of the professional services reviewed. Tanzania excluded architecture from its schedule of commitments, and Burundi has no laws for the sector. Uganda has 3 NCMs in architecture, Rwanda 2, and Kenya 1. Only 1 of the NCMs affects the MFN principle; the others are inconsistent to national treatment principles. Much like the other professional services, provision of services through Mode 4 is most affected by the NCMs in architecture.

Becoming a registered architect in Kenya requires having at least a year of domestic experience or demonstrating sufficient knowledge of the country's building contract procedures. In Rwanda foreign legal entities can provide architecture and engineering services as long as there is reciprocity with the countries where they are registered. In Uganda foreign architects can be registered to work on temporary initiatives after proving their professional qualifications, but must work with domestic architects.

## Road transport

More than a fifth of the overall identified NCMs involve road transport. Tanzania has the most (7), followed by Kenya (5), Rwanda (2), and Uganda (1). Burundi has none (Table 3.4). Unlike for professional services, where nearly all NCMs were inconsistent to national treatment principles, more road transport NCMs affect MFN treatment as well. Still, two-thirds are national treatment related. NCMs affecting Mode 3 (commercial presence) are also more common in road transport. Nonetheless, all the NCMs in road transport also affect provision of services through Mode 4.

**Table 3.4 NCMs in road transport**

No. of NCMs in road transport	
Tanzania	7
Kenya	5
Rwanda	2
Uganda	1
Burundi	0
<b>Total</b>	<b>15</b>

Source: EAC Common Market Scorecard Database

In Kenya any foreigner who brings in a foreign vehicle must report it to a licensing officer at the nearest point of entry or at a government office that issues vehicle licenses. Rwanda has specific requirements for non-Rwandan companies that transport freight in the country, including that they be locally registered. Uganda's Specified Goods (Conveyance) Act controls the conveyance of certain goods to and from the Congo, Rwanda, and Sudan. And Tanzania imposes a transit fee on foreign vehicles using public roads on the mainland.

The legal review for this report also looked at air transport services (Box 3.3). But these NCMs are discussed separately from the main assessment because—given that air transport is primarily regulated on a bilateral

level—the large number of NCMs in the air transport legislation of Partner States would have distorted the overall analysis.

## Distribution

The analysis focused on two types of distribution services—wholesale and retail. Uganda is the only Partner State with NCMs in this sector. In wholesale distribution, Uganda's 2 NCMs concern discriminatory provisions on trade with Rwanda, Sudan and the Congo. In addition, Uganda's laws also restrict non-citizens from trade in specific geographic areas and in specific goods; however, these restrictions are presently not inconsistent to Uganda's liberalization commitments since, based on Annex V of the CMP, Uganda has until 2015 to eliminate them.

Not all Partner States scheduled commitments in these two sectors in Annex V of the CMP. Tanzania did not include either sector and Kenya excluded retail. Furthermore, Rwanda inscribed "unbound" with an elimination date of 2013 for both.<sup>2</sup>

## Telecommunications

Telecommunications presents an interesting case study where no Partner State has measures inconsistent to its liberalization commitments.<sup>3</sup> This is despite the fact that some Partner States' legislation imposes restrictions on foreign service suppliers. In Kenya, for example, the National Information and Communications Technology Policy provides in Article 5.6 that all telecom firms must have at least 30% Kenyan equity ownership, thus encouraging Kenyans to participate in the sector.

In Tanzania, Electronic and Postal Communications (Licensing) Regulations 2011 require an applicant for a license to submit a list of shareholders with a minimum of 51% local ownership. These restrictions however do not presently constitute non-conforming measures regarding Partner States' liberalization commitments since the Partner States have until 2015 to eliminate these legal barriers.

<sup>2</sup> Annex V defines the inscription "unbound" as "no commitment to fully liberalize the subsector until the mentioned date when there will be a full commitment, or the commitment undertaken does not take effect until the mentioned date."

<sup>3</sup> The analysis focused primarily on the provision of fixed-line and mobile telephone services, business network services, data and messaging; and excluded courier, postal and audio-visual services.

### Box 3.3 A different approach to nonconforming measures for air transport

The EAC CMP is one of the world's only regional liberalization agreements that includes air transport. That is also the case in the European Union, but air transport is absent from the North American Free Trade Agreement (NAFTA) and other regional trade agreements. That is because air transport is usually regulated bilaterally. The World Trade Organization (WTO) began negotiations on air transport in 2010, but they have not concluded.

All the EAC Partner States made commitments to liberalize air transport under the CMP, including passenger air transport, freight air transport, and rentals of aircraft with operators.

In Rwanda, which has the most air transport NCMs, they all derive from a Presidential Order on Civil Aviation. Among other things, air transport NCMs in the region grant monopoly rights to domestic carriers and give preferential treatment to citizens and domestic businesses when registering aircraft, issuing operator certificates, awarding routes, and imposing airport charges on passengers.

	Number of NCMs
Rwanda	17
Tanzania	12
Kenya	4
Uganda	3
Burundi	1
<b>Total</b>	<b>37</b>

Source: EAC Common Market Scorecard Database

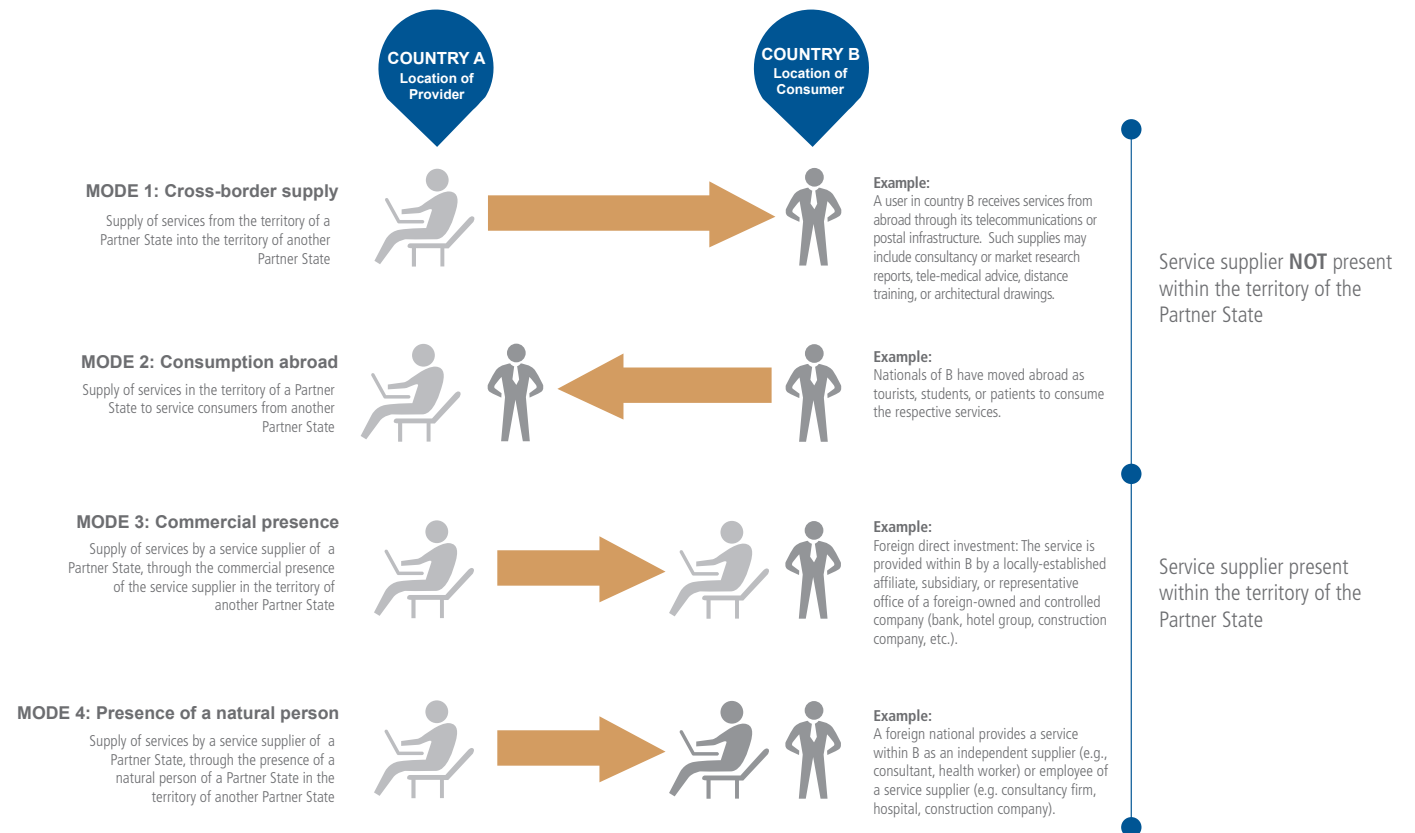
### Modes of supply affected by nonconforming measures

Nearly all NCMs affect multiple modes of supply for the delivery of services (Figure 3.1), as defined by the General Agreement on Trade in Services (GATS)<sup>4</sup>. Most NCMs (86%) affect the free movement of trade in Mode 4 (presence of a natural person). Two-thirds (67%) affect Mode 3 (commercial presence), and more than half (54%) involve Mode 1 (cross-border supply). No NCMs affect Mode 2 (consumption abroad).

<sup>4</sup> See methodology section for further explanation.

### Figure 3.1 How EAC non-conforming measures (NCMS) affect different modes of supply

Article 16.2: Free movement of services shall cover the four modes of supply for the delivery of services in cross-border trade. They are the following:



Source: EAC CMP Annex 5 and World Trade Organization ([http://www.wto.org/english/tratop\\_e/serv\\_e/cbt\\_course\\_elc1s3p1\\_e.htm](http://www.wto.org/english/tratop_e/serv_e/cbt_course_elc1s3p1_e.htm)).

Each Partner State's NCMs show some diversity in the affected modes (Table 3.5). In Rwanda and Tanzania all included modes are affected by about the same number of NCMs. Uganda, however, shows a wide gap among the modes—for example, 13 NCMs affect Mode 4, while only 5 affect Mode 3. The contrast is even starker in Burundi, where only 1 NCM concern Mode 1, while 7 affect Mode 4.

**Table 3.5 Number of NCMs affecting modes of supply**

	Mode 1 Cross-border supply	Mode 2 Consumption abroad	Mode 3 Commercial presence	Mode 4 Presence of a natural person
Burundi	1	0	5	7
Kenya	7	0	15	16
Rwanda	10	0	8	9
Tanzania	15	0	15	17
Uganda	6	0	5	10
<b>Total</b>	<b>39</b>	<b>0</b>	<b>48</b>	<b>59</b>
<i>Share of total NCMs affecting each mode (%)</i>	54%	0%	67%	86%

Source: EAC Common Market Scorecard Database

## National treatment and most favored nation measures

Most NCMs (72%) affect the national treatment principle (Table 3.6). More than a fourth (28%) affect the MFN principle. Market access measures were not analyzed because the CMP does not explicitly define this obligation. These results are rather consistent across all the Partner States except Burundi, where all identified NCMs affect the national treatment principle, compared with less than two-thirds in Rwanda.

**Table 3.6: NCMs as they affect national treatment and most favored nation principles**

	National Treatment	Most Favored Nation Treatment
Tanzania	12	5
Kenya	13	3
Uganda	7	3
Rwanda	7	6
Burundi	9	2
<b>Total</b>	<b>48</b>	<b>19</b>
<i>Share of total</i>	72%	28%

Source: EAC Common Market Scorecard Database

## Legal sources of nonconformance

The NCMs identified were found in laws (enacted by congresses or parliaments), administrative guidelines (enacted by the executive branch, including presidential decrees and ministerial orders), and regulations (internal by-laws enacted by institutions). Across the Partner States, 75% of NCMs were identified in laws, 15% in administrative guidelines, and 10% in regulations.

Notably, all of Kenya's NCMs were found in laws. In Uganda none was found in administrative guidelines. And in Burundi, Kenya, and Rwanda regulations did not account for any NCMs.

## Horizontally applicable NCMs

The analysis presented so far is based on a review of legislation that affects specific services sectors. But NCMs are also found in legislation that cuts across all sectors. A partial review of the Partner States' principal investment and company laws identified 11 NCMs that apply horizontally across sectors (Table 3.7).

**Table 3.7: Number of NCMs found in selected laws of general application**

	Investment law	Company law	Total
Uganda	3	3	6
Tanzania	2	0	2
Rwanda	1	1	2
Kenya	1	0	1
Burundi	0	0	0
<b>Total</b>	<b>7</b>	<b>4</b>	<b>11</b>

Source: EAC Common Market Scorecard Database

Uganda accounts half of the identified NCMs. In contrast, no NCMs were identified in Burundi's company and investment legislation, and only 1 in Kenya's investment law.

Examples of the horizontally applicable NCMs include:

- In Uganda, the Companies Act and Companies Fees Rules include discriminatory registration provisions affecting foreign companies that were not incorporated in the Commonwealth.
- In Tanzania, the Investment Act specifies that the benefits and protection provided under this Act are available to foreign-owned investment projects of at least \$300,000, while this threshold amount is only \$100,000 for locally-owned investments.
- In Kenya, the Investment Promotion Act of 2004 mandates a minimum size of foreign investment project. This minimum is not required of domestic investors.
- In Rwanda, the Law No. 07/2009 relating to companies requires all foreign companies registering a new business to submit a list of its directors residing in Rwanda.

### Liberalization commitments “unbound”

When scheduling their liberalization commitments in Annex V, the Partner States had an option of inscribing the term “unbound,” signifying “no commitment to fully liberalize the subsector until the mentioned date...” One could argue that the more “unbound” inscriptions a Partner State included in Annex V, the lower was its commitment to liberalization at the time of the CMP negotiations.

Relative to the overall number of commitments, Burundi performs best on this measure, with only 4 “unbound” inscriptions. Uganda follows with 26 inscriptions. Tanzania places in the middle of the ranking, ahead of Rwanda. Kenya performs worst.

### Recommendations

All inconsistent measures identified through this legal analysis present concrete opportunities for reform, focused on liberalizing legal restrictions and aligning Partner States’ legislation with their regional commitments.

The analysis presented in this report offers only a partial view of the lack of the Partner States’ compliance with their liberalization commitments. The assessment should be expanded to cover all services sectors and all legislation where such measures could be found.

For the EAC Partner States to further demonstrate their commitment to advancing services liberalization and establishing a common services market, they should bring their laws and regulations in line with the regional agreements. This however will only be part of the solution. The bigger, and much more challenging task is to ensure that the free movement of services exists not only on paper, but also in practice. Consistent and full application and implementation of the Partner States’ legislation is the only way of achieving deeper services liberalization and promoting free movement of services in the EAC.

In order to foster this compliance, the private sector, EAC Secretariat, and the Partner States should agree on a practical agenda for addressing the inconsistent measures. A working committee, for example EAC’s Judicial

and Legal Affairs Committee, could leverage this project’s findings. Once a specific agenda that includes targets, milestones, and actions has been completed, a simple monitoring system could be used to check if commitments were completed within their targeted timeframes.

Associated with the commitment to progressively liberalize services sectors is also the obligation for each Partner State to regularly inform the EAC Council of any new laws and administrative guidelines which affect trade in services. This notification has unfortunately not been a common practice. Establishing an effective reporting mechanism would add transparency and facilitate monitoring of the Partner States’ progress towards liberalization.

*"The EAC Partner States hereby establish a customs union." : Article 2, EAC Customs Union Protocol*



# FREEDOM OF MOVEMENT OF GOODS

To ensure the free movement of goods across the EAC, Partner States should strengthen efforts to:

- **Ensure complete elimination of tariffs and equivalent measures affecting intraregional trade.** Formally, all Partner States have eliminated tariffs on intraregional trade, but measures with equivalent effect remain. For instance, EAC certificates of origin are often not recognized at borders, and none of the Partner States have complied with EAC Council's recommendations to enact domestic legislation imposing penalties on people who furnish false documentation to obtain them.
- **Ensure elimination of non-tariff barriers (NTBs).** All Partner States still apply NTBs, with most related to sanitary and phytosanitary measures, rules of origin, charges of equivalent effect to tariffs, and technical barriers to trade. The Time Bound Program being implemented to identify and eliminate NTBs is helping to address these problems, and additional technical assistance could improve these efforts.
- **Ensure greater effective implementation of the common external tariff.** Though most Partner States are in formal legal compliance with this obligation, they all belong to other free trade areas. This means that

the Partner States apply different tariffs to extra-regional trade partners. These and other exceptions impede the effective free circulation of goods within the EAC.

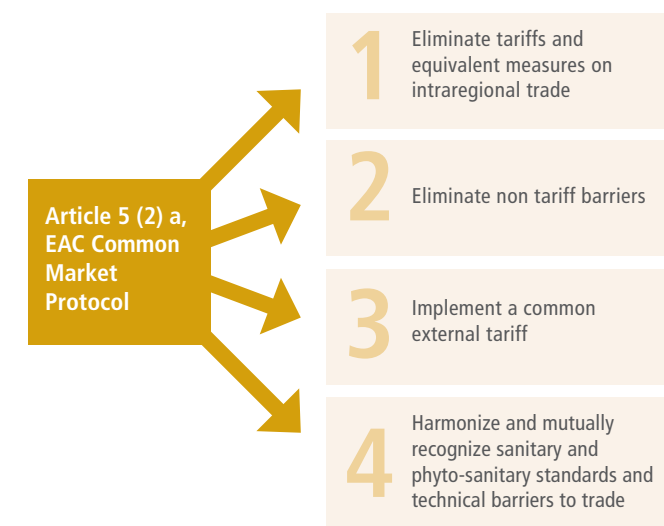
- **Continue the process of harmonization and mutual recognition of sanitary and phytosanitary standards (SPS) and standards preventing technical barriers to trade (TBT).** The fact that an important number of NTBs relate to these standards shows that effective implementation in this area remains a problem.

## FINDINGS

To assess progress by Partner States in building a common market, this scorecard examines their compliance with four commitments from Article 5(2)(a) of the Common Market Protocol (CMP), namely:

- A. Elimination of tariffs and equivalent measures on intraregional trade.
- B. Elimination of non-tariff barriers.
- C. Implementation of a common external tariff.
- D. Harmonization and mutual recognition of sanitary and phytosanitary standards (SPS) and standards preventing technical barriers to trade (TBT).

Figure 4.1 : EAC commitments cover four foundational areas



Source: EAC Common Market Protocol

Article 5(2)(a) requires Partner States to take all steps required to achieve these obligations through national and regional laws and regulations. In addition, EAC customs laws bar Partner States from introducing measures inconsistent with these obligations. Thus, there are two dimensions of this analysis in order to determine whether Partner States have complied with their obligations under Article 5(2)(a) of the CMP:

First, there is the assessment as to whether Partner States have taken all, or at least the minimum necessary steps necessary to comply with the obligations stated in Article 5(2)(a). For purposes of this scorecard, this positive dimension of compliance is called “legal compliance”. An analysis of legal compliance entails a substantial number of subsidiary steps, such as complying with all obligations included in the derived instruments of the CMP, Customs Union Protocol and other regional instruments, and examining for each of those commitments whether Member States have enacted all necessary legislation to implement them. As this would be a titanic exercise, entailing the examination of several hundred concrete obligations, the verification of the legal compliance with the obligations of Article 5(2)(a) for purposes of this scorecard, is based on an examination as to whether Partner States have enacted the minimum fundamental measures required to comply with this provision.

Second, in order to verify compliance by Partner States, it is also necessary to confirm whether each of them has enacted measures that may be inconsistent with the obligations mandated by Article 5(2)(a). For purposes of this scorecard, this dimension of compliance is called “de jure implementation”. Such analysis on de jure implementation is not exhaustive and relies on the identification made by the Partner States themselves in the context of their EAC Time Bound Program (created to identify and eliminate non-tariff barriers – NTBs) coordinated by the EAC Secretariat. Such measures are used as proxies for this exercise in order to facilitate the process of review. A complete de facto analysis was not performed because it would have required factual verification of many conditions needed to enable free trade in goods—information that is currently unavailable. Thus, the data and analysis presented in this scorecard are only indicators of State behaviour at national level.

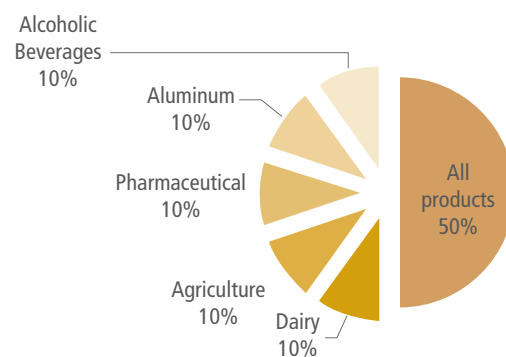
Legal compliance and de jure implementation are differentiated throughout the scorecard.

## Elimination of tariffs and equivalent measures

Formally, all Partner States have eliminated tariffs on intraregional trade. But other variables had to be verified to confirm de jure implementation with this obligation, such as the application of duties or other charges with equivalent effect and the efficacy of mechanisms to monitor rules of origin on goods. So, a study based on the EAC Time Bound Program was developed to identify charges equivalent to tariffs and non-recognition of EAC rules of origin in intraregional trade. This program was used because of the EAC Partner States’ involvement in detecting non-tariff barriers in the region. This analysis led to two main conclusions:

First, since 2008 all Partner States except Rwanda have imposed measures with equivalent effect to tariffs on intraregional trade, including additional taxes and charges that affect import costs or import unit values. These additional taxes and charges account for 17% of the total number of non-tariff barriers reported between 2008 and June 2013. They seem to affect most intraregional trade, especially dairy, agricultural, pharmaceutical, aluminum, and alcoholic products. Tanzania imposed most of these additional taxes and charges (40% of the region’s total), followed by Uganda (30%), Kenya (20%) and Burundi (10%).

**Figure 4.2 Charges of equivalent effect to tariffs, by product**



*Note: Based on NTBs reported from 2008-2013*  
*Source: EAC Time Bound Program*

**Table 4.1 Percentages of reported charges of equivalent effect, per Partner State**

TANZANIA	UGANDA	KENYA	BURUNDI	RWANDA
40%	30%	20%	10%	0%

*Note: Percentages reflect each Partner State’s contribution to charges of equivalent effect to tariffs, reported across EAC. A lower percentage indicates a better score.*

*Source: EAC Time Bound Program*

Second, all Partner States apply the harmonized rules of origin in Annex III of the EAC Customs Union Protocol. Yet the analysis detected some implementation problems. For example, EAC certificates of origin are often not recognized at borders, and issues related to rules of origin accounted for nearly a quarter of the non-tariff barriers reported between 2008 and June 2013. Tanzania accounted for 50% of the reported problems related to recognition of EAC certificates at borders, Uganda for 30%, and Kenya and Rwanda for 10% each. Burundi accounted for none.

**Table 4.2 Percentages of reported issues related to rules of origin, per Partner State**

TANZANIA	UGANDA	KENYA	RWANDA	BURUNDI
50%	30%	10%	10%	0%

*Note: Percentages reflect each Partner State’s contribution to problems related to implementation of rules of origin requirements across EAC. A lower percentage indicates a better score.*

*Source: EAC Time Bound Program*

Further research may be needed to assess all the factors behind this trend. However, lack of trust in certificates of origin could explain some of the non-compliance. In this regard, Tanzania and Uganda have not complied with a 2006 recommendation by the EAC Council of Ministers that customs authorities should issue the certificates, so these documents circulate with different issuing authorities across the region. In addition, contrary to the Customs Union Protocol, none of the Partner States have enacted domestic legislation imposing legal penalties on people who furnish false

documentation to obtain certificates of origin.

To assess progress towards compliance with the obligation to eliminate tariffs on intraregional trade, the reviews of legal compliance and de jure implementation were combined, controlling for variables such as the application of duties or other charges with equivalent effect and the effectiveness of mechanisms on rules of origin. A higher weighting was assigned to implementation (60%) than to legal compliance (40%). These weights, as well as the sub-component weights discussed below, were assigned by a panel of experts serving as a Reference Group for the project.

Because complete information on de facto implementation is not currently available, the analysis assumed that different elements of each variable have similar effects on compliance. So the weights assigned to the subcomponents of the two indicators are 20% for each variable of legal compliance (with the EAC tariff schedule and rules of origin) and 30% for each variable of implementation (additional taxes and charges, and certificates of origin). The certificates of origin subcomponent was further split into recognition of certificates of origin (16%), compliance with the EAC Council recommendation that certificates of origin be issued by customs authorities (7%), and compliance with rule 13 from Annex III of the Customs Union Protocol, which requires that Partner States to enact legislation to impose penalties on people who provide false documentation for certificates of origin (7%). The results are shown in table 4.3, where higher scores signify greater compliance.

## Elimination of non-tariff barriers

Unlike tariffs, non-tariff barriers (NTBs) are not directly quantifiable, and the information needed for a quantitative analysis is often hard to collect. This is the main reason why the EAC Time Bound Program was chosen as a matrix for the analysis of this scorecard, as in such program Member States themselves identified and gave official recognition to their non-conformity with the EAC obligations.

Although overall information on NTBs in the EAC is available from 2008 to June 2013, NTBs have been reported quarterly only since August 2011, and hence the period of August 2011-June 2013 served as the basis for the analysis.

**Table 4.3 Progress towards elimination of tariffs and equivalent measures by Partner State**

		%	RWANDA	BURUNDI	KENYA	UGANDA	TANZANIA
strict compliance	Compliance with tariff schedule	20	20	20	20	20	20
	Adoption of rules of origin requirements	20	20	20	20	20	20
	Use of charges of equivalent effect to tariffs	30	30	27	24	21	18
Effective implementation	Recognition of certificates of origin	16	14.4	16	14.4	11.2	8
	Compliance with EAC Council Recommendation about issuance of certificate of origin by customs authorities	7	7	7	7	0	0
	Compliance with Custom Union Protocol Annex III about false documentation for certificates of origin	7	0	0	0	0	0
		<b>100%</b>	<b>91.4%</b>	<b>90%</b>	<b>85.4%</b>	<b>72.2%</b>	<b>66%</b>

*Note: The scores only indicate trends toward overall legal compliance. They are not definitive scores of compliance. A higher percentage indicates a better score. Data collected between 2008 - June 2013.*

*Source: EAC Time Bound Program, WTO, World Bank Group calculations*

### Box 4.1 What is the EAC Time Bound Program?

During the 16th meeting of the EAC Council of Ministers held in 13th September 2008, in Arusha, Tanzania, the Council directed the Secretariat to prepare a time bound programme for elimination of identified and future Non-Tariff Barriers. On the basis of the Council decision, the EAC convened a meeting of the Regional Forum on NTBs which was attended by all National Monitoring Committees from the Partner States and prepared a draft EAC Time-Bound Programme for Elimination of Identified Non-Tariff Barriers (NTBs), where the heads of delegation of each country reports detected NTBs either in its own country or imposed by another Member State to the EAC Secretariat, and then all five EAC member States agree on characterizing such measures as NTBs. The program was formally adopted in 2009 and since then has been regularly implemented on a yearly basis and on quarterly basis since August 2011.

*Source: EAC Time Bound Program*

Because this is a legal analysis, only de jure NTBs reported for each Partner State were studied. These are defined as those implemented through

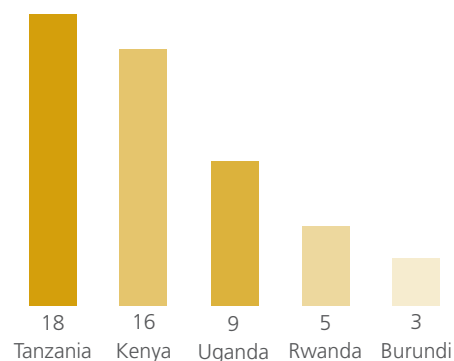
a specific law, regulation, or action from a particular Partner State. In contrast, de facto NTBs were excluded from the assessment. These refer to material actions such as poor conditions of the road infrastructure or lack of appropriate equipment and technology in the customs authorities and standards testing labs.

A complementary analysis was also conducted on those NTBs that have been resolved and those that are pending resolution, per country. The criterion under which an NTB was deemed to have been resolved was strictly following the recognition of that status by all five member States in the EAC Time Bound Program. An NTB is considered resolved if all five Partner States recognize that status. However, a verification process was performed on every reported NTB to avoid considering as "resolved NTBs" those simply replaced by another restrictive trade measure, as reported by the EAC Secretariat.

The analysis led to the following findings about compliance with the obligation to eliminate NTBs:

- Of the 51 reported NTBs, Tanzania has 18 (35% of the total), Kenya has 16 (31%), Uganda has 9 (18%), Rwanda has 5 (10%), and Burundi has 3 (6%) NTBs.
- NTBs are most often linked to rules of origin, sanitary and phytosanitary measures, charges of equivalent effect and technical barriers to trade.

**Figure 4.3 Number of reported non-tariff barriers, per Partner State**

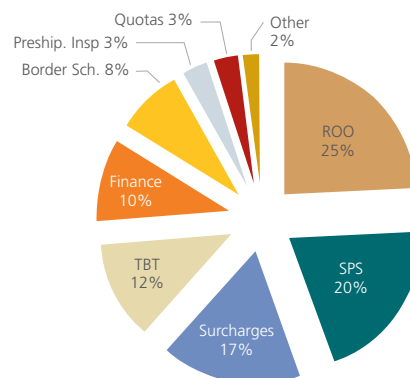


*Note: Based on data collected between 2008-2013, of non-tariff barriers based on laws, regulations and administrative circulars, and attributable to the conduct of a single Partner State. A lower number indicates a better score.*

*Source: EAC Time Bound Program*

- Though all products traded within the EAC are affected by the reported NTBs, specific sectors or products tend to be particularly affected: manufactured foodstuffs, rice, tea, dairy products, and alcoholic beverages.
- Regarding the complementary analysis of resolved versus unresolved NTBs, we found that Kenya has the most unresolved NTBs (7), followed by Uganda (5), Tanzania (5), Rwanda (3), and Burundi (1).

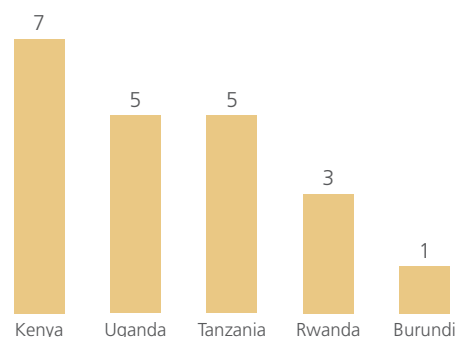
**Figure 4.4 Percentages of reported non-tariff barriers, per category**



*Note: Based on data collected between 2008-2013, of non-tariff barriers based on laws, regulations and administrative circulars and attributable to the conduct of a single Partner State. Classification based on UNCTAD classification of non-tariff measures (2012).*

*Source: EAC Time Bound Program, UNCTAD, World Bank Group calculations*

**Figure 4.5 Number of unresolved reported non-tariff barriers, per Partner State**



*Note: Based on data collected between 2008-2013, of non-tariff barriers based on laws, regulations and administrative circulars and attributable to the conduct of a single Partner State.*

*Source: EAC Time Bound Program*

- The category with the most unresolved NTBs is sanitary and phytosanitary measures, followed by rules of origin. Kenya has the most NTBs involving sanitary and phytosanitary measures, while Tanzania and Uganda have the most involving rules of origin.

The use of comparative analysis and percentage distribution of NTBs is intended only to show trends in and across countries. All Partner States have pending issues with NTBs, and the number of NTBs seems to be correlated with the amount of trade in each country. Countries with more NTBs tend to have higher percentages of resolved ones.

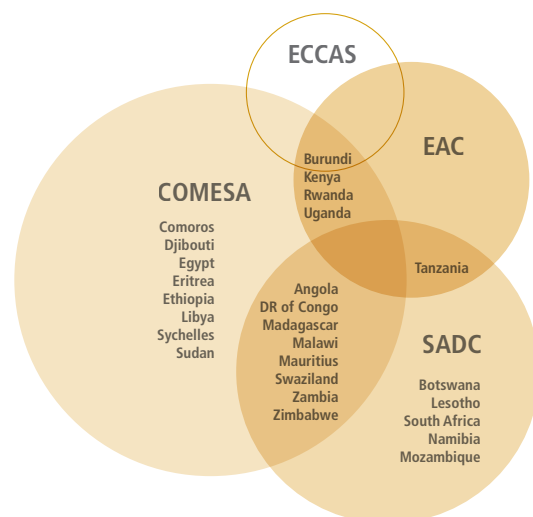
## Implementation of a common external tariff

A common external tariff (CET) is critical to ensure free circulation of goods in the EAC, and implies the application of the same customs duties to all goods entering the EAC, regardless of which country within the area they are entering. Under Article 12 of the EAC Customs Union Protocol, Partner States agreed to adopt a CET with a three-band structure (0% for raw materials, 10% for intermediate goods, and 25% for finished goods). All Partner States are in formal legal compliance with this obligation to adopt a CET.

Two analyses were performed to assess de jure implementation of the CET. The first assessed Partner States' compliance with the CET when trading with non-EAC countries, especially members of free trade areas that include Partner States. The second analyzed requests for temporary stays of application of the CET for key imports of Partner States.

These analyses led to two sets of findings. First, all Partner States belong to other free trade areas, implying different tariffs for countries in those markets (figure 4.6). That could be considered a perforation of the EAC's CET. But the Customs Union Protocol and related regulations make some exceptions, allowing Burundi, Kenya, Rwanda, and Uganda to participate in the Common Market for Eastern and Southern Africa (COMESA) and Tanzania to participate in the Southern African Development Community (SADC). However, no exception has been granted for Burundi's participation in the Economic Community of Central African States (ECCAS). As a result, Burundi is the only Partner State that is not in legal compliance with the CET obligation due to its membership in ECCAS.

Figure 4.6 Partner States' Membership in free trade areas



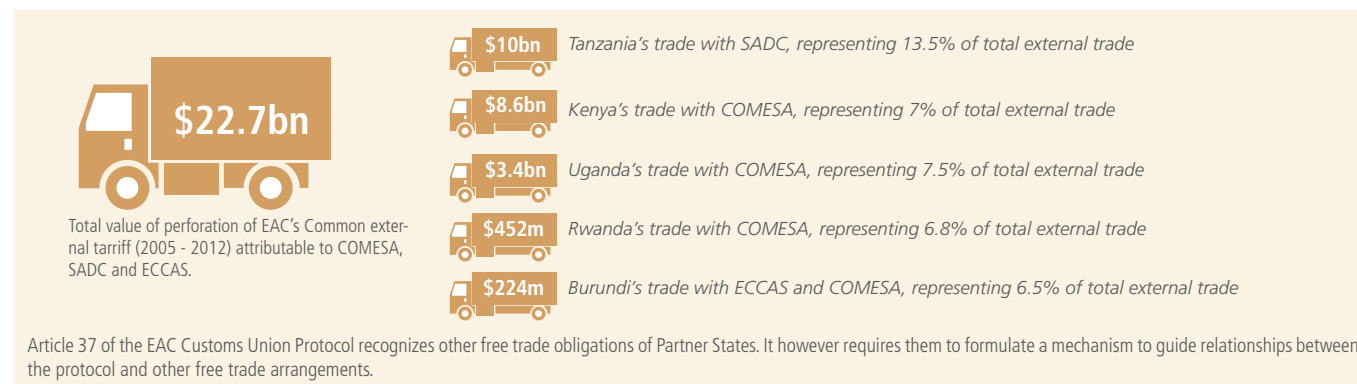
Source: WTO, EAC

The perforation of the CET resulting from Partner State memberships in other free trade areas does not affect a particularly high share of trade. However, the perforation nonetheless impedes the free circulation of goods within the EAC. Figure 4.7 shows the share of EAC Partner States' trade with free trade areas not subject to the CET. Overall, the analysis finds that only a relatively small share of trade (6.5% - 13.5%, depending on the Partner State) happens outside of the EAC CET.

The second set of findings comes from an analysis of requests for temporary stays of application of the CET. Such requests are approved by the EAC Council of Ministers, as provided for under Article 12 (3) of the Customs Union Protocol. These requests were analyzed to determine whether they represent a significant perforation of the CET. The study analyzed a representative sample of requests approved between June 2011 and June 2013, period when every Partner State was granted at least one exception. The analysis led to the following conclusions:

Figure 4.7 Perforation of EAC's Common External Tariff since establishment of the customs union in 2005.

Perforation of EAC's Common External Tariff remains a serious structural problem, and an obstacle to achieving the free circulation of goods. This is because perforation discourages removal of internal borders and complicates implementation of a common trade policy.



Source: EAC Customs Union Protocol, World Bank Group calculations

- Rwanda requested and was granted the highest share of the total number of stays of application (33%), followed by Kenya at 24%, Uganda at 20%, Burundi at 17% and Tanzania at 6%.

Table 4.4 Temporary Stays of application to the common external tariff, per Partner State

Country	No of Stays Granted
Rwanda	56
Kenya	41
Uganda	35
Burundi	29
Tanzania	11

Source: EAC Gazette Notices (2011 – 2013)

- Stays of application of the CET do not affect a significant volume of EAC imports. The percentage of trade affected by stays of application

of the CET ranged between 1% and 3.6% across Partner States.

- The average duration of these measures is about one year.
- The main products approved for stays of application were automotive (trucks, buses and cars), wheat, wheat flour, and rice. None is among the top goods produced by Partner States except in Uganda (wheat) and Rwanda (rice).

As with the analysis of NTBs, the use of comparative analysis and percentage distribution of stays of application is intended only to show trends across countries. All Partner States have requested these exceptions, and the stays granted affect a small amount of trade. Requests for stays do not seem linked to protectionist policies.

### Sanitary and phytosanitary standards, and technical barriers to trade

All five Partner States formally in the process to comply with their commitments to harmonize and mutually recognize sanitary and phytosanitary standards

**Table 4.5 Stays of application were requested most and granted for the products below**

Country	Top Products	HS Code
Uganda	Wheat (wheat grain)	1001.90.20
	Road Tractors for Semi Trailers	1001.90.90
		8701.20.90
Tanzania	Wheat (wheat grain)	1001.90.20
	Goods imported for use by Armed Forces Canteen Organization	1001.90.90
Kenya	Rice in the Husk	1006.10.00
	Husked (Brown)	1006.20.00
	Semi milled or	1006.30.00
	Broken rice	1006.40.00
Rwanda	Rice in the Husk	1006.10.00
	Wheat flour	1101.00.00
	Wheat grain	1001.90.00
Burundi	Wheat flour	1101.00.00
	Road Tractors for Semi Trailers	8701.20.90

Note: The number of requests was based on the sample period of June 2011-June 2013, the only timeframe when every Partner State was granted at least one exception.

The Harmonized Commodity Description and Coding System generally referred to as "Harmonized System" or simply "HS" is a multipurpose international product nomenclature developed by the World Customs Organization (WCO). It comprises about 5,000 commodity groups; each identified by a six digit code, arranged in a legal and logical structure and is supported by well-defined rules to achieve uniform classification. This classification is used in EAC's common external tariff.

Source: EAC Gazettes, World Customs Organisation

(SPS), and standards to prevent technical barriers to trade (TBT) through the adoption of the EAC Standardization, Quality Assurance, Metrology, and Testing Protocol (2001) and the Standardisation, Quality Assurance,

Metrology and Testing Act (2007). In addition, the EAC Protocol on Sanitary and Phytosanitary Measures was recently approved by the EAC Heads of State and Partner States (July 2013), although it is still undergoing ratification and implementation.

However, despite formal legal compliance, an analysis of de jure implementation of this obligation in the Partner States, using the EAC Time Bound Program and information provided by each country from 2008 to June 2013, shows some implementation problems:

- SPS and technical standards seem to be recurrent issues affecting intraregional trade, accounting for nearly a third of the NTBs reported in this period.
- Most issues related to SPS and technical standards take the form of cumbersome testing and certification procedures for products (especially food), non-recognition of quality marks and SPS certificates from other Partner States, and stringent requirements for the export of certain products.
- Though certain products such as food (tea and milk) are especially affected, all products in the region face these challenges.

**Table 4.6 Percentage of reported SPS and TBT-related non tariff barriers, per Partner State**

Kenya	Tanzania	Rwanda	Uganda	Burundi
31.25%	31.25%	18.75%	12.5%	6.25%

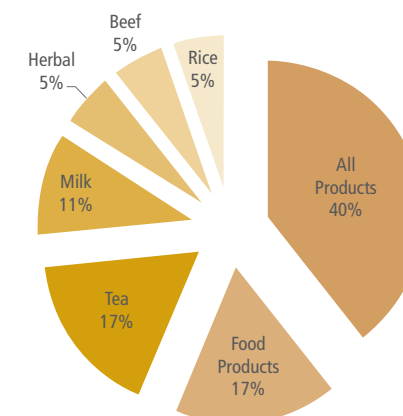
Note: Based on data collected between 2008-2013 of non-tariff barriers based on laws, regulations and administrative circulars, and attributable to the conduct of a single Partner State. A lower percentage indicates a better score.

Source: EAC Time Bound Program

## POLICY RECOMMENDATIONS

Several steps should be taken to ensure that Partner States meet their obligations to the free movement of goods in the EAC.

**Figure 4.8 Percentage of SPS and TBT-related non tariff barriers, by product**



Note: Based on data collected between 2008-2013 of non-tariff barriers based on laws, regulations and administrative circulars, and attributable to the conduct of a single Partner State.

Source: EAC Time Bound Program

## Elimination of tariffs and equivalent measures

Although formally all Partner States have eliminated tariffs on intraregional trade, the application of duties or other charges with equivalent effects remains a barrier to trade. Each EAC Member State should perform a detailed analysis of these measures and remove or modify them in order to prevent further breach of the obligation to eliminate tariffs and equivalent measures in EAC intraregional trade.

While all Partner States apply the harmonized EAC Rules of Origin, implementation problems remain. Further analysis on the implementation of EAC rules of origin should be performed by every EAC Member State with a focus on enhancing their application, verification procedures, and recognition of certificates of origin at borders. It is also highly desirable that Tanzania and Uganda comply with a 2006 recommendation by the EAC Council of

Ministers that customs authorities, not other bodies, be responsible for issuing the certificates of origin.

### **Elimination of non-tariff barriers**

All EAC Members still apply non-tariff barriers, and these measures affect all products traded within the EAC. NTBs are mostly related to sanitary and phytosanitary measures, rules of origin, charges of equivalent effect to tariffs, and technical barriers to trade.

The Time Bound Program being implemented by the EAC Secretariat and Partner States to identify and eliminate NTBs is extremely useful. Further implementation-oriented technical assistance could improve these efforts by:

1. Exploring whether the private sector could engage more directly in these efforts, both through national committees and at the regional level.
2. Helping to reach agreement on a classification of NTBs that enables Partner States to better identify and eliminate them—with a focus on differentiating between NTBs that can be attributed to the conduct of a Partner State and those that cannot, such as NTBs created in response to problems with infrastructure or security.
3. Better aligning the nomenclature of NTBs with UNCTAD's classification of non-tariff measures.
4. Strengthening the monitoring of elimination of NTBs to avoid having "resolved NTBs" simply being replaced by other restrictive measures.
5. Implementing procedures to notify Partner States of new rules and regulations that could affect trade and potentially be NTBs.
6. Developing a methodology to assess and quantify the impact of NTBs, to demonstrate to Partner States how NTBs could undermine the free circulation of goods in the region.

### **Implementation of a Common External Tariff**

All Partner States except Burundi are in formal legal compliance with this obligation. However, all EAC Members belong to other free trade areas. Application of different tariffs for countries in those markets could be considered against the spirit of the EAC Common External Tariff. Other

exception that affects the application of the CET, are the requests for temporary stays of application of the Common External Tariff approved by the EAC Council of Ministers.

Operation-oriented technical assistance could help Partner States fast-track initiatives to implement a common trade policy with non-EAC countries. Initiatives such as the COMESA-EAC-SADC Tripartite are welcomed to improve harmonisation and functionality of regional trading arrangements. Although they do not seem to significantly affect EAC trade, it is desirable that stays of applications are minimized as they distort the implementation of the CET. A tracking system by the EAC Secretariat and Partner States for the stays of application could be implemented, following the recommendations provided above for the Time Bound Program already implemented for NTBs.

### **Sanitary and phytosanitary standards, and technical barriers to trade**

All five Partner States formally comply with their commitments to harmonize and mutually recognize sanitary and phytosanitary standards, and technical standards, although the SPS Protocol is still undergoing ratification. However, effective implementation of those standards remains an important problem, affecting all areas and especially food products.

Implementation-oriented technical assistance could help Partner States to fully comply with their commitments to harmonize and mutually recognize SPS and technical standards, aligning roles and responsibilities of institutions assigned to handle these matters. It would be useful to examine similar experiences in other regional trade groups to identify pragmatic approaches that promote more fluid circulation of goods.



# METHODOLOGY

The scorecard tracks de jure compliance with commitments by the EAC Partner States to enable a free cross-border movement of capital, services and goods. It provides an assessment of de jure compliance rather than de facto implementation of the integration commitments. The analysis is based on a review of 683 laws and regulations relevant to the common market (124 in capital, 545 in services and 14 in goods), along with key legal notices, reports and trade statistics.

## CAPITAL

This scorecard measures Partner States' compliance with commitments made toward the EAC Common Market Protocol Schedule on the Removal of Restrictions on the Free Movement of Capital, covering the 20 capital market operations in the schedule.

A headline score is on a scale of 0 to 100, with the goal of indicating compliance with the free movement of capital. The scorecard is not an assessment of domestic regulation in Partner States.

Noncompliance by Partner States with commitments made in the protocol affects the free movement of capital in the EAC and by extension hinders economic growth. But other factors have also affected EAC growth in recent years, including the size and depth of the region's capital markets

and limited awareness of opportunities for investments. This scorecard does not assess those issues.

## Data gathering and review

The first step in this scorecard's development was gathering and reviewing data on laws and regulations that could restrict the free movement of capital in the EAC. This review is accurate as of September 30, 2013. The main source for these data was research by legal analysts in the five EAC Partner States, complemented by information such as International Monetary Fund (IMF) findings on capital flows and restrictions in the region.

In addition, the report team sent questionnaires to relevant public agencies (such as central banks and capital market authorities) and private organizations (such as law firms engaged in cross-border financial operations, legal departments of investment firms and commercial banks, and brokerage houses and stock exchanges).

About 60 responses were received. If clarification was needed from respondents, the team contacted them.

## Coding

The second step in developing this scorecard was coding the collected data.

The coding for this scorecard sought to identify restrictions if laws and regulations limit the free movement of capital in the EAC. This approach was based on the number of operations affected by those laws and regulations, not by tallying the total number of restrictions.

Several restrictions can affect one operation, in which case they are all considered and penalized as one restriction. Conversely, a single restriction (such as the capital controls in Burundi and Tanzania) can affect several operations, in which case they are considered and penalized separately for each operation.

## Regulations that constitute a restriction include:

- Any regulation that discriminates between individuals of different Partner States. An example would be requiring government approval for residents of other Partner States to participate in local money markets, but not requiring it for local residents.
- When governments require that only certain types of funds (such as those generated externally) can be used for cross-border capital market operations.

- Deposit requirements associated with moving capital.

### Regulations that do not constitute a restriction include:

- Those that do not substantively limit the free movement of capital, such as those for which no government response is required or that can be conducted after a capital market operation has been completed, such as notification to a central bank for statistical purposes.
- Those in compliance with one of the exceptions in Articles 25, 26 or 27 of the protocol—being justified by concerns about prudential supervision, public policy, money laundering, financial sanctions, or safeguard measures. For such regulations not to be considered restrictions, Partner States must have appropriately notified the EAC Secretariat.
- Those that limit capital movements by discriminating between residents and nonresidents, but that define residents as a resident of any Partner State.
- Those limiting capital operations not covered by the protocol. Once coding was complete, the data were verified by compiling legal and regulatory information for each Partner State and determining whether a restriction should be applied to each capital operation (with legal and regulatory citations whenever possible). That information was then shared with the Ministries responsible for EAC affairs in the 5 Partner States.

After restrictions were identified, we assigned quantitative indicator scores. The scoring criteria were:

- No restriction was in place: 1
- Restriction in place on the operation or no enabling regulatory framework: 0

The scores for the 20 capital operations covered by Annex VI of the protocol were then summed and multiplied by 5 to develop a scale of 0 to 100 for each Partner State. A Partner State that has removed all regulatory restrictions on the relevant operations, or that did not have any, would receive a score of

100. A score of 0 would indicate that the country maintains a restriction on every capital market operation.

## SERVICES

This scorecard measures the extent to which EAC Partner States are complying with their commitments to international norms and principles of fairness and nondiscrimination—comprising national treatment and most favored nation treatment—in the trade of services. Thus the Scorecard assesses laws, regulations, and administrative actions affecting the free movement of services for each Partner State in order to:

- Promote transparency and accountability among Partner States by disseminating information on progress towards full implementation of the Common Market Protocol (CMP).
- Generate feedback for concerned stakeholders on where follow-up actions are needed.
- Facilitate progress on compliance by raising public awareness, and building public support and political will for legal and regulatory reform.

### Project scope: Summary of obligations (Part F of CMP)

Part F of the EAC CMP, titled “Free Movement of Services”, provides the key obligations concerning services trade liberalization in the EAC. It includes the “Schedule of Commitments on the Progressive Liberalization of Services” (Annex V). The Protocol thus provides for a progressive liberalization of services in accordance with a Schedule (Annex V) that presents legally binding offers of sectors and subsectors that Partner States have agreed to liberalize.

The key obligations to liberalize services trade under the CMP are the following:

**Article 16:1:** “The Partner States hereby guarantee the free movement of services supplied by nationals of Partner States and the free movement

of service suppliers who are nationals of the Partner States within the Community”.

**Article 16.2:** Free movement of services shall cover the four modes of supply for the delivery of services in cross-border trade.

**Articles 16.3 & 4:** refer to the obligation to ensure compliance at all levels of government and by non-governmental bodies in the exercise of powers delegated by governments.

**Article 16.5:** “The Partner States shall progressively remove existing restrictions and shall not introduce any new restrictions on the provision of services in the Partner States...” These obligations are based on standstill and gradual roll-back commitments in Annex V of the Protocol.

**Article 16.7** notes that the definition of services for the purposes of the Protocol excludes (a) services supplied in the exercise of governmental authority on a non-commercial basis, and (b) services provided for remuneration governed by the provisions relating to free movement of goods, capital and persons.

As noted earlier, the two key substantive obligations listed in the Protocol concern national treatment and most favored nation treatment. Curiously, Annex V also contains obligations for market access; however, there is no equivalent market access provision in the actual Protocol. It has been explained to the team that this is most likely due to a drafting error during the Protocol’s and Annex V’s negotiations. Given that the Protocol does not explicitly include a market access obligation, this has been excluded from the scope of the analysis.

The following are the verbatim definitions of the national treatment and MFN obligations as spelled out in the Protocol (Box 5.1).

### Sector coverage (Annex V of CMP)

As explained above, Annex V comprises a detailed schedule of commitments that are legally binding offers of sectors and subsectors that the Partner States have agreed to liberalize<sup>5</sup>:

<sup>5</sup>While all five Partner States have listed commitments for each of the sectors, the coverage of subsectors is not necessarily consistent across countries. For example, under financial services, Uganda chose not to include any commitments related to the insurance subsector, while the other Partner States did. Similarly, in Communication Services, Rwanda is the only Partner State to have included commitments under the postal services subsector.

- a. Business services (professional services—legal, accounting, tax, architecture, engineering; computer and related services, R&D services, other)
- b. Communication services (telecom, courier, audio-visual)
- c. Distribution (commission agents' services, wholesale, retail)
- d. Education (primary, secondary, higher, adult, other)
- e. Financial (all insurance, banking, other financial services)
- f. Tourism and travel-related (hotels, restaurants, travel agencies, tour operators, tourist guides, other)
- g. Transport (internal waterways, maritime, air, road, pipeline, other)

### Box 5.1 National Treatment and Most Favored Nation (MFN) Treatment obligations

The Protocol provides the following obligations for National Treatment and Most Favored Nation (MFN) Treatment, consistent with the WTO GATS principles:

#### National Treatment:

- "Each Partner State shall accord to services and service suppliers of other Partner States, treatment no less favorable than that accorded to similar services and service suppliers of the Partner State."
- "For the purposes of fulfilling the requirement of paragraph 1, each Partner State may accord to services and service suppliers of other Partner States, either formally identical treatment or formally different treatment to that it accords to like services and service suppliers of the Partner State."
- "Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of the Partner State compared to like services or service suppliers of the other Partner States."

#### MFN Treatment:

- "Each Partner State shall upon the coming into force of this Protocol, accord unconditionally, to services and service suppliers of the other Partner States, treatment no less favourable than that it accords to like services and service suppliers of other Partner States or any third party or a customs territory."

Source: EAC Common Market Protocol

The exact definition of each subsector and the commercial activities it includes is provided in the Annex through a reference to the UN Central Product Classification (CPC) codes.<sup>6</sup>

The legal review for this report also looked at air transport services. But these NCMs are discussed separately from the main assessment because - given that air transport is primarily regulated on a bilateral level - the large number of NCMs in the air transport legislation of Partner States would have distorted the overall analysis.

### Data collection and analysis process

The information for the analysis was based on an extensive review of each Partner State's domestic legislation and administrative actions in the four target sectors. The purpose of this review was to identify provisions that breach the Partner States' commitments under the national treatment and MFN obligations listed in Annex V of the CMP.

The analysis focused only on legal compliance with the obligations. In other words, it sought to identify *de jure* measures inconsistent to the Annex V commitments. Implementation of the laws in practice (i.e. *de facto* analysis) was outside the scope of the project. More specifically, the table below shows the CPC codes included in the Scorecard analysis for the selected sectors/subsectors, based on Annex V commitments (Table 5.1).

The legal review was conducted by a team of licensed attorneys in each Partner State. The principal research tools included searching the electronic law databases of the EAC Partner States, reviewing official gazettes and interviewing regulators and practitioners in each of the target sectors (Table 5.1). The process also included consultations with key stakeholders, comprising:

- Ministry of East African Community in each Partner State
- Ministry of Trade in each Partner State
- State Law Office in each Partner State
- Law Reform Commissions in each Partner State
- Other competent authorities (e.g. regulatory agencies, professional associations, etc.)

All identified information was shared with the concerned public authorities for their validation.

Throughout the legal review, all provisions of the laws and regulations that breached the Partner States' obligations were recorded in a specific template. All these provisions have been referred to as "non-conforming measures", or NCMs. For each NCM, the following information was also recorded:

- Exact text of the NCM
- Legal source
- Year of the law/regulation
- Type of measure (National Treatment or MFN)
- Mode of supply affected

In instances where specific Partner States did not make any commitments in individual subsectors, these were excluded from the analysis.

### Limitations

Due to the various methodological specifications and the resulting trade-offs, the analysis has certain limitations that should be kept in mind. The analysis:

- Focused on national treatment and MFN obligations. It excluded market access obligations. (These will only be included once the EAC Technical Working Group completes its work.)
- Excluded certain sectors and subsectors, based on the proxy selection methodology.
- Excluded those sectors and subsectors where a Partner State made no commitment (i.e. listed "unbound"<sup>7</sup> in Annex V).
- Excluded sectors and subsectors with a future date for the elimination of restrictions (e.g. 2015).

<sup>6</sup>unstats.un.org/unsd/cr/registry/regcst.asp?cl=9&lg=1 <sup>7</sup>Annex V defines unbound as "no commitment to fully liberalise the subsector until the mentioned date when there will be a full commitment or the commitment undertaken does not take effect until the mentioned date."

## Box 5.2: Selection of proxy sectors and subsectors for the Services Scorecard

The following three methodologies were applied to select the set of sectors and subsectors for the Services Scorecard. Sectors shown in italicized font were selected for inclusion in the Scorecard.

<p><b>A.</b> GDP contribution of the various service sectors in the EAC economies yields the following ordering of sectors:</p> <p><b>LARGEST GDP SHARE</b></p> <ol style="list-style-type: none"> <li><i>Retail and wholesale trade</i></li> <li><i>Transport</i></li> <li><i>ICT/Telecommunication</i></li> <li>Real estate/construction</li> <li>Business/professional services</li> <li>Education</li> <li>Finance/insurance</li> </ol> <p><b>SMALLEST GDP SHARE</b></p>	<p><b>B.</b> Restrictiveness of the various service sectors based on the Services Trade Restrictiveness Database<sup>8</sup> methodology yields the following ordering of sectors:</p> <p><b>MOST RESTRICTED</b></p> <ol style="list-style-type: none"> <li><i>Professional services</i>: accounting, auditing, and legal services (advice on foreign/international law, advice on domestic law, and court representation)</li> <li><i>Telecommunications</i>: fixed-line and mobile</li> <li>Financial services: retail banking (lending and deposit acceptance) and insurance (automobile, life and reinsurance)</li> <li>Transportation: air passenger (international and domestic), maritime shipping, maritime auxiliary, road trucking and railway freight</li> <li>Retail distribution</li> </ol> <p><b>LEAST RESTRICTED</b></p>	<p><b>C.</b> Restrictiveness of the various service sectors based on a methodology that quantifies the liberalization commitments scheduled in Annex V<sup>9</sup> yields for the following ordering of sectors:</p> <p><b>MOST RESTRICTED</b></p> <ol style="list-style-type: none"> <li><i>Communication services</i></li> <li><i>Transport services</i></li> <li>Financial services</li> <li>Distribution</li> <li>Professional services</li> <li>Education</li> <li>Tourism/travel</li> </ol> <p><b>LEAST RESTRICTED</b></p>
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Note: As shown above, financial services (banking and insurance) ranked 3<sup>rd</sup> on the restrictiveness indices. The World Bank Group team will consider addition of the financial services to the scope of the project as time and resources allow.

- Measured the Partner States' legal compliance with the provisions of the protocol. It did not measure implementation of those provisions in practice.
- Only considered laws, regulations and administrative actions taken by the Partner States' national governments, local governments or local authorities. It excluded measures taken by non-governmental bodies in the exercise of powers delegated by national governments, local governments or local authorities.
- Excluded legal acts presently under preparation and consideration in a Partner State.
- Did not consider directives and decisions of the Council of Ministers issued with regard to implementation of the Common Market.
- Did not consider domestication of laws passed by the East African Legislative Assembly.
- Excluded bilateral agreements which are inconsistent to the MFN obligation.
- Excluded administrative actions targeted at individual or companies.
- Excluded administrative actions which are not based on the law and therefore and measure that is not published.

Table 5.1: CPC codes of sectors and subsectors included in the Services Scorecard

Sector	Subsector	CPC Codes				
		Burundi	Kenya	Rwanda	Uganda	Tanzania
Professional services	Legal services	861	86119	861*	861	n/a
	Accounting , Auditing and Bookkeeping services	862	862 (excl. 86213 and 86211)	862	862	862
	Architectural services	8671	8671	8671	8671	n/a
	Engineering	8672	86721	8672	8672	8672
Telecommunication services	Telecommunication services	7521	7521-23, 7529	7521-23*	7521-23*	7521-23*
Transportation services	Road transport	7121-24, 6112, 8867, 744	7121-23, 6112, 8867, 744	7121-24, 6112, 8868, 744	7121-24, 6112, 8868, 744	7121-23
Distribution services	Wholesale	622	622	622	622	n/a
	Retail	631-32	n/a	631-2	631-2, 6111, 6113, 6121	n/a

Source: EAC CMP Annex V

<sup>8</sup><http://research.worldbank.org/servicetrade/> <sup>9</sup>For example, if Annex V indicates there are no restrictions ("none") in a particular sector, the country received a perfect score. If Annex V suggests a restriction, such as JV requirements or "unbound", the country is penalized with a lower score. Sectors with the lowest score are considered most restricted.

## GOODS

### Approach and methods

This scorecard assesses compliance from a legal perspective. Legal compliance entails many steps, such as enacting legislation to comply with subsidiary obligations derived from the CMP (in particular the Customs Union Protocol). Thoroughly determining compliance would be a huge undertaking, requiring an examination of several hundred obligations in the Customs Union Protocol and other regional instruments. Moreover, such an effort would tell only half the story, because it would also be necessary to verify whether Partner States had enacted domestic measures inconsistent with Article 5(2)(a) of the CMP. Compliance is based on whether Partner States have enacted the minimum

measures required to achieve it. It also examines whether Partner States have adopted measures inconsistent with Article 5(2)(a). If a Partner State has enacted measures inconsistent with a provision of Article 5(2)(a), it logically follows that it is not complying with that provision. To identify measures that could be inconsistent with Article 5(2)(a), the analysis relied on trade-related barriers imposed by Partner States under their non-tariff barrier programs, coordinated by the EAC Secretariat. These barriers were used as proxies for the analysis.

The research covered steps taken by each Partner State between 2008 (the first year of membership for all five countries) and June 2013. When possible, the scorecard compares performance across countries and for countries over time. But because available data differ for each country, that was not always possible.

### Areas of focus

This scorecard examines compliance with four obligations from Article 5(2)(a) of the CMP:

- A. Elimination of tariffs and equivalent measures on intraregional trade.
- B. Elimination of non-tariff barriers.
- C. Implementation of a common external tariff.
- D. Harmonization and mutual recognition of sanitary and phytosanitary standards and technical standards.

### Elimination of tariffs and equivalent measures on intraregional trade

To determine whether Partner States are complying with this obligation, two aspects must be analyzed. One is the legal compliance of with the obligation to adjust their tariff schedules to provide preferential treatment to intraregional trade. The other is if this commitment has been effectively implemented from a de jure (legal) point of view. Effective de jure implementation of the obligation depends on, as a minimum, whether tariffs or other charges of equivalent effect have been eliminated, and whether EAC rules of origin are being effectively applied.

**Elimination of tariffs and other charges of equivalent effect.** Although all tariffs and duties in the Common Market seem to have been formally eliminated, some variables needed to be verified. Partner States could have enacted legal measures, applying duties or other charges of equivalent effect—circumventing their commitment to eliminate tariffs on intraregional trade.

The EAC Time Bound Program (created to eliminate NTBs) was a vital source of information for studying this issue.<sup>2</sup> Based on that information, several tasks were performed:

- Identification of the number, ratio and modalities that NTBs had taken in each Partner State that had applied them.
- A comparison of the percentage distribution of the reported NTBs and their categories across Partner States.
- Identification of the types of products affected by NTBs.

**Effective application of EAC rules of origin.** The analysis of problems reported with implementation of the rules of origin was controlled using the information on reported NTBs, to provide an indication of the magnitude of this problem in the region and in each Partner State. Only as an indication of the trend in each country's level of legal compliance—and not as a precise or definitive indicator of compliance—assessments were made of the effective level of legal compliance with the EAC obligation to eliminate tariffs on intraregional trade. Several variables were chosen to establish Partner States' level of legal compliance with the obligation to eliminate tariffs on intraregional trade, and each was assigned a weighting in the total scores:

- Legal compliance (40%), comprising adjustment in tariff schedules (20%) and adoption of EAC rules of origin (20%).
- Effective de jure implementation (60%), comprising application of duties or other charges of equivalent effect (30%) and implementation of EAC rules of origin (30%)—which was based on recognition of EAC certificates of origin (16%), compliance with the EAC Council of Ministers recommendation that customs authorities issue certificates of origin (7%), and compliance with rule 13 from Annex III of the EAC rules of origin (7%).

Because the focus of this exercise was to measure progress toward completion of the EAC Common Market, a higher weighting was given to the effective de jure implementation of the obligation to eliminate tariffs on intraregional trade than to strict legal compliance with that obligation.

### Elimination of non-tariff barriers

Unlike tariffs, NTBs are not straightforwardly quantifiable.<sup>3</sup> To minimize these uncertainties, the Time Bound Program was used as a basis for this study. As noted, it is under this program that Partner States recognize the existence of NTBs—and thus non-conformity with EAC obligations. Moreover, the program identifies measures to deal with or remove NTBs, providing an opportunity to measure the level of effective de jure implementation among Partner States.

Although overall information on NTBs in the EAC is available from 2008 to June 2013, NTBs have been reported on a quarterly basis only since August 2011. Thus not enough information is available to disaggregate the data and provide annual comparisons across Partner States on resolved and unresolved NTBs. Therefore, NTBs were analyzed using the following criteria:

- Because this was a legal analysis, reported de facto NTBs were excluded and only de jure NTBs were studied. Here de jure NTBs are defined as those that required a specific law, regulation, or action from the state.
- NTBs were further distinguished as measures that could be attributed to a single government and those that exist due to disagreements among Partner States on the enactment of regional disciplines.
- A further distinction was made between resolved and unresolved NTBs. An NTB was deemed to have been resolved if that status had been recognized by all five Partner States. But every report was verified to avoid considering as “resolved NTBs” those that had simply been replaced by another restrictive trade measure, as reported by the EAC Secretariat.
- Legal NTBs were classified in accordance with the guidelines issued by the United Nations Conference on Trade and Development (UNCTAD) in February 2012. The classification of NTBs developed by the EAC Secretariat was not used because it focused on factors beyond the legal analysis of the measures.

## Implementation of a common external tariff

A common external tariff (CET) is critical to ensure free circulation of goods in the EAC. To measure the level of de jure implementation of this obligation, two studies were performed. The first assessed the level of compliance with the CET for non-EAC countries, especially those in free trade areas with Partner State members. Such relationships imply different tariffs for those countries and could be considered a perforation of the EAC's CET. This study first determined the level of perforation of the CET caused by trade between each Partner State and members of other free trade areas. With that information, a comparative analysis was performed for each Partner State to identify trends in noncompliance with the obligation to apply the CET due to other free trade areas. Finally, the EAC Common Market Protocol and related regulations were reviewed to determine if they allow exceptions for Partner States to perforate the CET and participate in other free trade areas.

The second study covered temporary adjustments to the CET, given that Article 12(3) of the EAC Customs Union Protocol allows for some through stays of application approved by the Council of Ministers. This analysis covered a representative sample of stays approved by the EAC Council between 2009 and June 2013, the only period with comparable information for all Partner States.

The study sought to determine the number of stays of application approved for each country, the average duration of such measures, the products most often affected in each country, trade flows of the main products granted stays in each country, whether the products for which stays were granted are produced in each Partner State, a comparative status of Partner States based on stay requests between 2011 and 2013, and a comparative status of Partner States based on the overall percentage of trade affected by stays in the same period.

To determine the number of stays of application granted to each Partner State, a sample period of June 2011 to June 2013 was used because that was the only timeframe with enough exceptions granted to all Partner States. When possible, the analysis was performed at the sector level. The top products granted stays of application were identified for each Partner State and for the EAC as a whole. The year 2011 was used as a proxy to evaluate the magnitude of trade affected by stays of application because it

was the latest year with complete data on trade flows.

## Sanitary and phytosanitary standards and technical barriers to trade

An analysis was performed of EAC harmonization of measures on sanitary and phytosanitary standards (SPS) and standards to prevent technical barriers to trade (TBT). All the Partner States formally comply with their commitments to harmonize and mutually recognize these measures through the adoption of the EAC Standardization, Quality Assurance, Metrology, and Testing Protocol and Act, and the July 2013 approval of the EAC Protocol on Sanitary and Phytosanitary Measures by the EAC heads of state and Partner States, though the SPS Protocol is still undergoing ratification and implementation.

Because a formal de jure compliance test would not reflect reality on the ground, a study was performed based on information from the Time Bound Program, which provides a basis for determining issues affecting effective implementation of the standards regime.

The study compared the number of measures involving SPS and TBT with the number involving reported NTBs. An analysis of this information by country and product would indicate the magnitude of the problems surrounding the

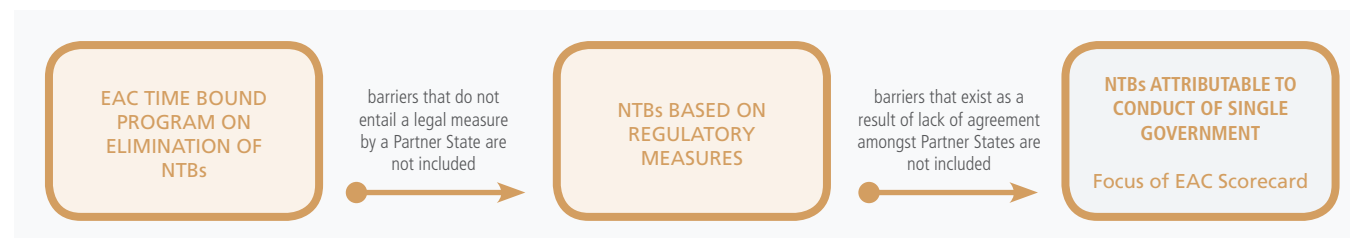
de jure implementation of these standards across Partner States, and guide future research in areas considered most important.

## Data collection

International sources of information for this scorecard included international treaties and reports from organizations such as the World Trade Organization (WTO), Food and Agriculture Organization (FAO), and International Trade Centre (ITC). From the EAC, sources included the laws and regulations of each Partner State, the EAC Time Bound Program, EAC Gazettes, from local trade, customs, and statistics authorities.

A study of EAC framework agreements reviewed status reports on progress toward the obligations made in each area of focus. It also drew on data from the Partner States' Bureaus of Statistics, which were verified with data from the EAC Secretariat.

Figure 5.1 Criteria for selection of non tariff barriers considered for analysis in the scorecard



Source: World Bank Group

<sup>3</sup>UNCTAD, "Non-Tariff Measures To Trade: Economic and Policy Issues for Developing Countries", *Developing Countries In International Trade Studies*, August 2013.

<sup>4</sup>UNCTAD, *supra* note 1, p. 63





# COUNTRY TABLES



## BURUNDI

	OPERATION	RESTRICTION	SOURCE
1	Purchase by residents of foreign shares or other securities of a participating nature	The requirement for approval by the Central Bank is unfettered, with no timelines for completion of the approval process, for a time sensitive financial transaction. The approval process also requires that one justifies how returns on previous investments were utilized, as a basis for approval of new purchases.	Article 3 para 2 and Article 63 of the Foreign Exchange Regulation of 10 June 2010.
2	Local purchase by non-residents of shares or other securities of a participating nature.	All or a specified percentage of securities may be sold only to citizens of Burundi or companies with majority Burundian ownership. The committee also determines the rules and procedures for subsequent transfer of these securities to foreign investors.	Article 16 Para 2 of the Law No. 1/01 of 9/02/2012 amending the Law No. 1/03 / of 19/02/2009 on the Organization of the Privatization of Companies with Government's Participations, Public Services and Works.
3	Participation of residents in initial public offers (IPOs) in foreign capital markets	The requirement for approval by the Central Bank is unfettered, with no timelines for completion of the approval process, for a time sensitive financial transaction. The approval process also requires that one justifies how returns on previous investments were utilized, as a basis for approval of new purchases.	Article 3 para 2 and Article 63 of the Foreign Exchange Regulation of 10 June 2010.
4	Local sale by non-residents of foreign shares or other securities of a participating nature.	No regulatory framework.	No regulatory framework.
5	Foreign sale by residents of shares or other securities of a participating nature	The requirement for approval by the Central Bank is unfettered, with no timelines for completion of the approval process, for a time sensitive financial transaction. The approval process also requires that one justifies how returns on previous investments were utilized, as a basis for approval of new purchases.	Article 3 para 2 and Article 63 of the Foreign Exchange Regulation of 10 June 2010.
6	Local purchase of bonds and other debt instruments by non-residents	Regulation only covers the issue and trading of government securities, and not of corporate bonds.	Insufficient regulatory framework.

	OPERATION	RESTRICTION	SOURCE
7	Local sale of bonds and other debt instruments by non-residents	Regulation only covers the issue and trading of government securities, and not of corporate bonds.	Insufficient regulatory framework.
8	Sale of bonds and other debt securities abroad by residents	The requirement for approval by the Central Bank is unfettered, with no timelines for completion of the approval process, for a time sensitive financial transaction. The approval process also requires that one justifies how returns on previous investments were utilized, as a basis for approval of new purchases.	Article 3 para 2 and Article 63 of the Foreign Exchange Regulation of 10 June 2010.
9	Local purchase or sale of money market instruments by non-residents	Open	Open
10	Foreign purchase or sale of money market instruments by residents	The requirement for approval by the Central Bank is unfettered, with no timelines for completion of the approval process, for a time sensitive financial transaction. The approval process also requires that one justifies how returns on previous investments were utilized, as a basis for approval of new purchases.	Article 3 para 2 and Article 63 of the Foreign Exchange Regulation of 10 June 2010.
11	Local purchase by non-residents of collective investment schemes	No regulatory framework.	No regulatory framework.
12	Local sale or issue by non-residents of collective investment schemes	No regulatory framework.	No regulatory framework.
13	Sale or issue of derivative product locally by non-residents	No regulatory framework.	No regulatory framework.
14	Sale or issue of derivative products abroad by residents	No regulatory framework.	No regulatory framework.
15	External borrowing by residents	Open	Open
16	Lending abroad by residents	The requirement for approval by the Central Bank is unfettered, with no timelines for completion of the approval process, for a time sensitive financial transaction. The approval process also requires that one justifies how returns on previous investments were utilized, as a basis for approval of new purchases.	Article 3 para 2 and Article 63 of the Foreign Exchange Regulation of 10 June 2010.
17	Inward direct investments	All or a specified percentage of securities may be sold only to citizens of Burundi or companies with majority Burundian ownership. The committee also determines the rules and procedures for subsequent transfer of these securities to foreign investors.	Article 16 Para 2 of the Law No. 1/01 of 9/02/2012 amending the Law No. 1/03 / of 19/02/2009 on the Organization of the Privatization of Companies with Government's Participations, Public Services and Works.
18	Outward direct investments	The requirement for approval by the Central Bank is unfettered, with no timelines for completion of the approval process, for a time sensitive financial transaction. The approval process also requires that one justifies how returns on previous investments were utilized, as a basis for approval of new purchases.	Article 3 para 2 and Article 63 of the Foreign Exchange Regulation of 10 June 2010
19	Repatriation of proceeds from the sale of assets	Open	Open
20	Personal capital transactions	Open	Open

**GENERAL EXCEPTIONS PURSUANT TO ARTICLE 25.1**

		EXCEPTION	SOURCE	NOTIFIED?
1	Prudential supervision	None	None	Not applicable
2	Public Policy Considerations	None	None	Not applicable
3	Anti Money Laundering	None	None	Not applicable
4	Financial sanctions agreed to by member states	None	None	Not applicable
5	Safeguard measures to alleviate temporary financial disturbances	None	None	Not applicable



	OPERATION	RESTRICTION	SOURCE
1	Purchase by residents of foreign shares or other securities of a participating nature	Open	Open
2	Local purchase by non-residents of shares or other securities of a participating nature	Open	Open
3	Participation of residents in initial public offers (IPOs) in foreign capital markets	Open	Open
4	Local sale by non-residents of foreign shares or other securities of a participating nature	Open	Open
5	Foreign sale by residents of shares or other securities of a participating nature	Open	Open
6	Local purchase of bonds and other debt instruments by non-residents	Open	Open
7	Local sale of bonds and other debt instruments by non-residents	Open	Open
8	Sale of bonds and other debt securities abroad by residents	Open	Open
9	Local purchase or sale of money market instruments by non-residents	Open	Open
10	Foreign purchase or sale of money market instruments by residents	Open	Open
11	Local purchase by non-residents of collective investment schemes	Open	Open
12	Local sale or issue by non-residents of collective investment schemes	Open	Open
13	Sale or issue of derivative product locally by non-residents	No regulatory framework	No regulatory framework
14	Sale or issue of derivative products abroad by residents	No regulatory framework	No regulatory framework
15	External borrowing by residents	Open	Open
16	Lending abroad by residents	Open	Open
17	Inward direct investments	By defining foreign investors to include those from EAC Partner States, the Act requires them to apply for and be issued an investment certificate before investing in Kenya.	The Investment Promotion Act, 2004

OPERATION		RESTRICTION	SOURCE
		At least one-third of the controlling interest in an insurance company registered in Kenya must at all times be held by citizens of Kenya or by a partnership whose partners are all citizens of Kenya or by a body corporate whose shares are wholly owned by citizens of Kenya, or is wholly owned by the Government of Kenya.	Section 22, Insurance Act, Cap 487
		Reserves at least 60% of the paid up capital of an insurance brokerage company for citizens of Kenya or for a partnership whose partners are all citizens of Kenya or for a body corporate whose shares are wholly owned by citizens of Kenya or is wholly owned by the Government of Kenya.	Section 153(2), Insurance Act
		This policy requires that an applicant for a license conforms to prevailing policy, which reserves controlling interest for Kenyan nationals	Kenya Information and Communication (Licensing and Quality of Service) Regulations ,2010- issued under the Kenya Information and Communications Act Cap 411A- Regulation 4 (3)
18	Outward direct investments	No restriction	Not applicable
19	Repatriation of proceeds from the sale of assets	No restriction	Not applicable
20	Personal capital transactions	No restriction	Not applicable

#### GENERAL EXCEPTIONS PURSUANT TO ARTICLE 25.1

		EXCEPTION	SOURCE	NOTIFIED?
1	Prudential supervision	Provides that except with the permission of the Central Bank every payment made; a. In Kenya, to or for the credit of a person outside Kenya; or b. Outside Kenya, to or for the credit of a person in Kenya; or c. In Kenya (other than a payment for a current transaction) between a resident and non-resident shall be effected through an authorized bank.	Central Bank of Kenya Act, cap 491. S.33H (1) (c)	No
2	Public Policy Considerations	None	None	Not applicable
3	Anti Money Laundering	A person who transports monetary instruments of USD 10,000 or its equivalent in Kenya shillings or other currency in or out of Kenya shall declare in a prescribed form at the point of entry or exit.	The Proceeds of Crime and Anti- Money Laundering Act, 2009 S.12 (1) and schedule 2	No.
4	Financial sanctions agreed to by member states	None	None	Not applicable
5	Safeguard measures to alleviate temporary financial disturbances	None	None	Not Applicable



## RWANDA

	OPERATION	RESTRICTION	SOURCE
1	Purchase by residents of foreign shares or other securities of a participating nature	Open	Open
2	Local purchase by non-residents of shares or other securities of a participating nature	Open <i>Note: Allocation criteria for previous IPOs in favor of Rwandese nationals not traced to any law.</i>	Open
3	Participation of residents in initial public offers (IPOs) in foreign capital markets	Open	Open
4	Local sale by non-residents of foreign shares or other securities of a participating nature	Open	Open
5	Foreign sale by residents of shares or other securities of a participating nature	Open	Open
6	Local purchase of bonds and other debt instruments by non-residents	Open	Open
7	Local sale of bonds and other debt instruments by non-residents	Open	Open
8	Sale of bonds and other debt securities abroad by residents	Open	Open
9	Local purchase or sale of money market instruments by non-residents	Central Bank has wide and unfettered discretion to intervene in money markets.	Law NO. 55/2007 of 30/11/2007 Governing the Central Bank of Rwanda, Article 55.
10	Foreign purchase or sale of money market instruments by residents	Central Bank has wide and unfettered discretion to intervene in money markets.	Law NO. 55/2007 of 30/11/2007 Governing the Central Bank of Rwanda, Article 55.
11	Local purchase by non-residents of collective investment schemes	Open	Open
12	Local sale or issue by non-residents of collective investment schemes	Open	Open
13	Sale or issue of derivative product locally by non-residents	No regulatory framework.	No regulatory framework.
14	Sale or issue of derivative products abroad by residents	No regulatory framework.	No regulatory framework.
15	External borrowing by residents	Open	Open
16	Lending abroad by residents	Open	Open

OPERATION	RESTRICTION	SOURCE
17	Inward direct investments	<p>Authorisation to participate in the Central Securities Depository may be declined if the potential participant's domestic law does not offer reciprocal market access under the same conditions to participants governed by Rwandan Law.</p> <p>Applicants for Approval of a Foreign Securities Exchange must demonstrate that adequate arrangements exist for cooperation between the Authority and those responsible for the supervision of the applicant in the country in which the applicant's head office is situated.</p> <p>Requires that an applicant for participation in the capital market business in Rwanda must already be regulated and licensed by a foreign agency with equivalent powers. The Authority is also empowered to make regulations to be followed by a foreign person before he/she is authorized to operate, which are not elaborated.</p> <p>Licenses may be refused in the interest of national integrity and/or security or to ensure healthy competition in the telecommunication sector.</p> <p>Defines a foreign investor to include Tanzanian citizens, given they are not members of COMESA. Subsequent laws go ahead to provide incentives not available to COMESA members</p> <p>By including Tanzanians in its definition of foreign investors, this law requires them to invest at least \$250,000 in foreign capital, unlike other EAC citizens whose threshold is \$150,000.</p>
18	Outward direct investments	Open
19	Repatriation of proceeds from the sale of assets	Open
20	Personal capital transactions	Open

#### GENERAL EXCEPTIONS PURSUANT TO ARTICLE 25.1

	EXCEPTION	SOURCE	NOTIFIED?
1	Prudential supervision	Central Bank has wide and unfettered discretion to intervene in money markets.	No
2	Public Policy Considerations	None	Not applicable
3	Anti Money Laundering	Any person who leaves or enters the Republic of Rwanda transporting cash or negotiable bills or exchange or an amount above that of the threshold set by the financial investigation unit without prior declaration, except for funds certified by a withdrawal slip issued by an accredited bank in Rwanda shall commit the offence of money laundering.	No.
4	Financial sanctions agreed to by member states	None	Not applicable
5	Safeguard measures to alleviate temporary financial disturbances	None	Not applicable



## TANZANIA

OPERATION	RESTRICTION	SOURCE
1 Purchase by residents of foreign shares or other securities of a participating nature	<p>Tanzanian residents are prohibited from participating in the securities markets of other Partner States unless such investments are funded from externally generated funds.</p> <p>Restricts investments in non-real estate related assets to foreign markets regulated by International Organization of Securities Commission (IOSCO). Burundi and Rwanda are not members of IOSCO.</p> <p>Restricts outward portfolio investments, foreign lending operations in favor of non-residents, acquisition of real estate, outward direct investments, operation of off shore foreign currency accounts by residents and participation of non-residents in domestic money and capital markets.</p>	<p>The Foreign Exchange Regulations, G.N. No. 629 of 1998, regulation 9 (2)</p> <p>Capital Markets and Securities (Collective Investment Schemes Real Estate Investment Trust Schemes) Rules Rule 58 (5), (6)</p> <p>Bank of Tanzania Foreign Exchange circular NO. 6000/DEM/EX.REG/58 issued on 24th September 1998, Clause 3.3.</p>
2 Local purchase by non-residents of shares or other securities of a participating nature	<p>Defines a foreign investor to include those from other Partner States, and based on this definition, imposes limitations on their participation in the securities market.</p> <p>Limits aggregate holding of investors from other Partner States citizens including capping purchase of securities by foreigners to 60% of the total number issued, capping purchases by a single individual foreign investors to 1% of the total shares issued, and institutional investors to 5%.</p> <p>Restricts outward portfolio investments, foreign lending operations in favor of non-residents, acquisition of real estate, outward direct investments, operation of off shore foreign currency accounts by residents and participation of non-residents in domestic money and capital markets.</p>	<p>The Capital Markets and Securities (Foreign Investors) Regulations 2003. Regulation 2</p> <p>Regulation 3 (4), 3 (6), 3 (7)(1)(2) (3)</p> <p>Bank of Tanzania Foreign Exchange circular NO. 6000/DEM/EX.REG/58 issued on 24th September 1998, Clause 3.3.</p>
3 Participation of residents in initial public offers (IPOs) in foreign capital markets	<p>Tanzanian residents are prohibited from participating in the securities markets of other Partner States unless such investments are funded from externally generated funds.</p> <p>Restricts outward portfolio investments, foreign lending operations in favor of non-residents, acquisition of real estate, outward direct investments, operation of off shore foreign currency accounts by residents and participation of non-residents in domestic money and capital markets.</p>	<p>The Foreign Exchange Regulations, G.N. No. 629 of 1998, regulation 9 (2)</p> <p>Bank of Tanzania Foreign Exchange circular NO. 6000/DEM/EX.REG/58 issued on 24th September 1998, Clause 3.3.</p>
4 Local sale by non-residents of foreign shares or other securities of a participating nature	<p>Restricts outward portfolio investments, foreign lending operations in favor of non-residents, acquisition of real estate, outward direct investments, operation of off shore foreign currency accounts by residents and participation of non-residents in domestic money and capital markets.</p>	<p>Bank of Tanzania Foreign Exchange circular NO. 6000/DEM/EX.REG/58 issued on 24th September 1998, Clause 3.3.</p>
5 Foreign sale by residents of shares or other securities of a participating nature	<p>Restricts outward portfolio investments, foreign lending operations in favor of non-residents, acquisition of real estate, outward direct investments, operation of off shore foreign currency accounts by residents and participation of non-residents in domestic money and capital markets.</p>	<p>Bank of Tanzania Foreign Exchange circular NO. 6000/DEM/EX.REG/58 issued on 24th September 1998, Clause 3.3.</p>
6 Local purchase of bonds and other debt instruments by non-residents	<p>With the exception of financial institutions, this provision excludes citizens of the other Partner States from participating in the government securities market in Tanzania.</p> <p>Restricts participation of non-residents in domestic money and capital markets.</p>	<p>The Capital Markets and Securities (Foreign Investors) Regulations 2003, Regulation 3 (2)</p> <p>Bank of Tanzania Foreign Exchange circular NO. 6000/DEM/EX.REG/58 issued on 24th September 1998, Clause 3.3.</p>

OPERATION	RESTRICTION	SOURCE
7	Local sale of bonds and other debt instruments by non-residents	With the exception of financial institutions, this provision excludes citizens of the other Partner States from participating in the government securities market in Tanzania.  Restricts participation of non-residents in domestic money and capital markets.
		The Capital Markets and Securities (Foreign Investors) Regulations 2003, Regulation 3 (2)  Bank of Tanzania Foreign Exchange circular NO. 6000/DEM/EX.REG/58 issued on 24th September 1998, Clause 3.3.
8	Sale of bonds and other debt securities abroad by residents	With the exception of financial institutions, this provision excludes citizens of the other Partner States from participating in the government securities market in Tanzania.  Restricts participation of non-residents in domestic money and capital markets.
		The Capital Markets and Securities (Foreign Investors) Regulations 2003, Regulation 3 (2)  Bank of Tanzania Foreign Exchange circular NO. 6000/DEM/EX.REG/58 issued on 24th September 1998, Clause 3.3.
9	Local purchase or sale of money market instruments by non-residents	Restricts participation of non-residents in domestic money and capital markets.
		Bank of Tanzania Foreign Exchange circular NO. 6000/DEM/EX.REG/58 issued on 24th September 1998, Clause 3.3.
10	Foreign purchase or sale of money market instruments by residents	Open
		Open
11	Local purchase by non-residents of collective investment schemes	Open
		Open
12	Local sale or issue by non-residents of collective investment schemes	Only statutory bodies or companies incorporated in Tanzania can sell or issue collective investment scheme products, leaving out branch offices of EAC-domiciled companies.
		Capital Markets and Securities Act Cap 79, S.119 (1)
13	Sale or issue of derivative product locally by non-residents	No regulatory framework
		No regulatory framework
14	Sale or issue of derivative products abroad by residents	No regulatory framework
		No regulatory framework
15	External borrowing by residents	Open
		Open
16	Lending abroad by residents	Restricts lending to an entity not resident in Tanzania.  Restricts outward portfolio investments, foreign lending operations in favor of non-residents, acquisition of real estate, outward direct investments, operation of off shore foreign currency accounts by residents and participation of non-residents in domestic money and capital markets.
		The Foreign Exchange Regulations, GN. NO 629 of 1998. Regulation 20  Bank of Tanzania Foreign Exchange circular NO. 6000/DEM/EX.REG/58 issued on 24th September 1998, Clause 3.3.

OPERATION	RESTRICTION	SOURCE
17	Inward direct investments	<p>Defines a foreign investor to include those from other Partner States, and based on this definition, imposes discriminatory treatment including: making enjoyment of benefits of the Act conditional to investing \$300,000 (local threshold is \$100,000); limits on amount of capital foreign businesses may mobilize from domestic financial institutions, and additional supervision over those funds, than would apply to local investors.</p> <p>The Investment Promotion Act, 1997, Section 2</p> <p>For registration as an insurer, one has to be local company, deemed to be resident, and 1/3 of controlling interest be held by citizens of Tanzania. 1/3 of the board members should also be citizens of Tanzania.</p> <p>S.16(1) of the Insurance Act, 2009</p> <p>Reserves 1/3 of the controlling interest in an insurance broker for Tanzanian citizens.</p> <p>Insurance Regulations, 2009-Regulation 6 (3) (b)</p> <p>51% of the shareholding in applicants for free to air broadcasting licensing shall be local.</p> <p>Electronic and Postal Communications (Licensing) Regulations 2011- Regulation 18 (1) (b)</p> <p>Prior to transfer of shares, a licensee shall be required to submit to the authority proof that the minimum local shareholding requirement is maintained.</p> <p>Section 18 (3) (b)</p> <p>Provides that a management company shall have a minimum of 30% Tanzanian equity.</p> <p>Capital Markets and Securities (Collective Investment Schemes Real Estate Investment Trust) Rules- Rule (c)</p>
18	Outward direct investments	<p>Restricts outward portfolio investments, foreign lending operations in favor of non-residents, acquisition of real estate, outward direct investments, operation of off shore foreign currency accounts by residents and participation of non-residents in domestic money and capital markets.</p> <p>Bank of Tanzania Foreign Exchange circular NO. 6000/DEM/ EX.REG/58 issued on 24th September 1998, Clause 3.3.</p>
19	Repatriation of proceeds from the sale of assets	<p>Open</p> <p>Open</p>
20	Personal capital transactions	<p>A ceiling of \$ 10,000 is imposed for individual residents travelling abroad, even when they go to other Partner States.</p> <p>Bank of Tanzania Foreign Exchange Circular, Clause 2.1</p> <p>Provides that any person may transfer into or from Tanzania any right to the sums assured by any policy of assurance acquired outside Tanzania provided that servicing of such assurance policy is realized by externally acquired funds.</p> <p>Regulation 18 of the Foreign Exchange Regulations GN NO 629 Of 1998</p>

## GENERAL EXCEPTIONS PURSUANT TO ARTICLE 25.1

		EXCEPTION	SOURCE	NOTIFIED?
1	Prudential supervision	None	None	
2	Public Policy Considerations	<p>Restricts the aggregate amount of securities that non-Tanzanians can hold in Tanzanian Securities, which limits the participation of other Partner States in the market.</p> <p>Tanzanian residents can only participate in the securities markets of other Partner States using externally generated funds.</p> <p>Restricts outward portfolio investments, foreign lending operations in favor of non-residents, acquisition of real estate, outward direct investments, operation of off shore foreign currency accounts by residents and participation of non-residents in domestic money and capital markets.</p>	<p>Regulation 3 (2) of the Capital Markets and Securities (Foreign Investors) Regulations 2003,</p> <p>The Foreign Exchange Regulations, G.N NO. 629 of 1998, regulation 9(2)</p> <p>Bank of Tanzania Foreign Exchange circular NO. 6000/DEM/EX.REG/58 issued on 24th September 1998, Clause 3.3.</p>	No.
3	Anti Money Laundering	Limits residents of Tanzania to a limit of \$10,000 for travel abroad.	Bank of Tanzania Foreign Exchange circular NO. 6000/DEM/EX.REG/58 issued on 24th September 1998, Clause 2.1	No.
4	Financial sanctions agreed to by member states	None	None	Not Applicable
5	Safeguard measures to alleviate temporary financial disturbances	None	None	Not Applicable



## UGANDA

	OPERATION	RESTRICTION	SOURCE
1	Purchase by residents of foreign shares or other securities of a participating nature	Open	Open
2	Local purchase by non-residents of shares or other securities of a participating nature	Residents receive a potentially better rate for withholding tax than do non-residents for listed securities.  The withholding tax rate applicable for interest and dividend payments to a resident is 15%. No rate is specified for non-residents, presenting uncertainty.	The Income Tax (Amendment) Act of 2006, Part V of schedule 3- sections 117 and 118.
3	Participation of residents in initial public offers (IPOs) in foreign capital markets	Open	Open
4	Local sale by non-residents of foreign shares or other securities of a participating nature	Open	Open
5	Foreign sale by residents of shares or other securities of a participating nature	Open	Open
6	Local purchase of bonds and other debt instruments by non-residents	The withholding tax rate applicable for interest payments on government securities to a resident person is 20%. No rate is specified for non-residents, presenting uncertainty.	The Income Tax (Amendment) Act of 2012- Part V schedule 3 Section 118 (3)
7	Local sale of bonds and other debt instruments by non-residents	Open	Open
8	Sale of bonds and other debt securities abroad by residents	Open	Open
9	Local purchase or sale of money market instruments by non-residents	Open	Open
10	Foreign purchase or sale of money market instruments by residents	Open	Open
11	Local purchase by non-residents of collective investment schemes	Open	Open
12	Local sale or issue by non-residents of collective investment schemes	Open	Open
13	Sale or issue of derivative product locally by non-residents	No regulatory framework	No regulatory framework
14	Sale or issue of derivative products abroad by residents	No regulatory framework	No regulatory framework
15	External borrowing by residents	Open	Open
16	Lending abroad by residents	Open	Open

OPERATION		RESTRICTION	SOURCE
17	Inward direct investments	<p>Describes foreign investors to include other Partner States, and on this basis requires additional procedures to qualify for incentives under the Act.</p> <p>No foreign investor shall carry on the business of crop production, animal production or acquire or be granted or lease land for the purpose of crop production or animal production</p> <p>Foreign investors are required to deposit \$100,000 with the Bank of Uganda for importation or direct purchase of goods for the business. It is on the basis of this deposit that BOU issues a certificate of deposit. Subject to compliance with this and immigration laws an entry permit may be issued to the foreign investor.</p> <p>A foreign investor shall qualify for incentives under the Code if that investor makes a capital investment or an equivalent in capital goods worth at least \$500,000 by way of capital, yet Ugandan investors have a threshold of \$50,000</p> <p>Restricts incentives to a number of sectors only to locals. These are: wholesale and retail commerce, personal services sector, public relations business, car hire services and operation of taxis, bakeries, confectionaries and food processing for the Ugandan market only, postal services, and professional services.</p>	<p>Investment Code Act Cap 92 of the Laws of Uganda S.9(1)</p> <p>s.10(2)</p> <p>Section 10(5)</p> <p>S.22 (2) and (3)</p> <p>Schedule 3</p>
18	Outward direct investments	Open	Open
19	Repatriation of proceeds from the sale of assets	Open	Open
20	Personal capital transactions	Open	Open

#### GENERAL EXCEPTIONS PURSUANT TO ARTICLE 25.1

		EXCEPTION	SOURCE	NOTIFIED
1	Prudential supervision	Sets conditions limiting the amount of loans and other credit accommodations a financial institution may contract in foreign currency.	The Financial Institutions (Foreign Exchange Business) Rules, 2010 Rule 7	No.
2	Public Policy Considerations	None	None	No.
3	Anti Money Laundering	A financial institution shall report, on a monthly basis any transaction amounting to \$10,000 or more or the equivalent in any other currency involving cash or "near cash" such as traveller's cheques, to the national law enforcement agencies and serve a copy to the central bank by using the large cash transactions report set out in schedule 4.	The Financial Institutions (Anti- Money Laundering) Regulations, 2010 Regulation 13-	No.
4	Financial sanctions agreed to by member states	None	None	Not applicable
5	Safeguard measures to alleviate temporary financial disturbances	Empowers the Governor of the Central Bank, in consultation with the minister to temporarily impose exchange controls if he is satisfied that Uganda has experienced a severe deterioration in its balance of payments.	S.10 Of the Exchange Control Act, 2004	No.

Sector	Subsector	Source law / regulation	Source details	Non-Conforming Measure (NCM)	Type of obligation (National Treatment or MFN)
Professional Services	Accounting, auditing, bookkeeping	Implementation of the Decree No 100/053 of 11/5/2011 on the Establishment of the Institute of Certified Public Accountants, Ministerial Order No 540/1033 of 30/07/2004	Article 11	Applicant for enrollment to level A of Professional Accounts shall meet the following conditions: a. being a citizen of Burundi or having his/her residence in Burundi.	NT
Professional Services	Accounting, auditing, bookkeeping	Implementation of the Decree No 100/053 of 11/5/2011 on the Establishment of the Institute of Certified Public Accountants, Ministerial Order No 540/1033 of 30/07/2004	Article 12	Applicant for enrollment to level B of Professional Accounts shall fulfill the following conditions: a. being a citizen of Burundi or having his/her residence in Burundi.	NT
Professional Services	Accounting, auditing, bookkeeping	Implementation of the Decree No 100/053 of 11/5/2011 on the Establishment of the Institute of Certified Public Accountants, Ministerial Order No 540/1033 of 30/07/2004	Article 18	Foreign non-resident may conduct audits missions in Burundi, as long as they form an association with a local firm of certified professionals accountants. The reports issued at the end of these missions must be signed together with the representative the local firm.	NT
Professional Services	Accounting, auditing, bookkeeping	Implementation of the Decree No 100/053 of 11/5/2011 on the Establishment of the Institute of Certified Public Accountants, Ministerial Order No 540/1033 of 30/07/2004	Article 19	If a foreign firm wants to operate in Burundi, it may open an establishment under the following conditions: <ul style="list-style-type: none"> <li>establishing a corporation under Burundian law with one or more certified professional accountants (joint venture), natural or legal persons , members of the Institute</li> <li>reserving at least one third of the shares to national or resident professional accountants.</li> <li>choosing the majority of its managers from among the members of the Institute</li> </ul>	NT
Professional Services	Accounting, auditing, bookkeeping	Regulation of Banks and Financial establishments, Law No 01/017 of 13 October 2003	Article 59	Every bank and every financial institution must designate at least an auditor who shall be a legal person, whether an accounting firm or auditing firm. The designation of the auditor is subject to the prior approval of the Central Bank. The auditor shall not perform this function for more than five successive years from a bank or Financial Institution. Unless otherwise approved by the Central Bank, this auditor must be domiciled in Burundi. The auditors are subject to the criteria of Article 17.	NT
Professional Services	Architecture	No laws regulating the subsector			
Professional Services	Engineering	No laws regulating the subsector			
Professional Services	Legal services	Advocates Act (reform of the Status of Advocates Profession in Burundi, Law No 1/014/of 29/11/2002)	Article 7 a)	Chapter II: Admission of advocates Article 7 None can be admitted to practice law as a trainee Advocate unless he fulfills the following conditions: a. being a citizen of Burundi Notwithstanding the foregoing a), foreigners may be admitted as Advocates in accordance with international Agreements or subject to the reciprocity clause.	NT, MFN

Sector	Subsector	Source law / regulation	Source details	Non-Conforming Measure (NCM)	Type of obligation (National Treatment or MFN)
Professional Services	Legal services	Advocates Act (reform of the Status of Advocates Profession in Burundi, Law No 1/014/of 29/11/2002)	Article 30	Title II: Rights and duties of advocates Chapter I: Professional monopoly Article 30 Only regularly enrolled advocates have the right to exercise legal profession in Burundi. However, a foreign Advocate may be allowed by the Court/Tribunal before which the case is lodged to assist or defend a party. The request of the foreign Advocate must be notified to the Chairperson of Burundi Bar Association who may provide his opinion as to the response to be given to the request. The foreign lawyer admitted to assist or represent his/her client in Burundi must comply with the professional practices and obligations applicable to advocates of Burundi.	NT
Professional Services	Legal services	Internal Regulations of Burundi Bar Association	Article 5	Any person who applies for enrollment to the Bar association shall submit to the Secretariat of the Bar association an application, to which are attached documents that certify the fulfillment of conditions set out by Articles 7 of the Law of 29 November 2002: <ul style="list-style-type: none"> <li>a nationality Certificate issued by the competent authority</li> </ul>	NT
Professional Services	Legal services	Notaries Act, (Organisation and Functioning of Notary Profession and the Status of Notaries in Burundi, Law No 1/004/ of 9/7/1996)	Article 10	Chapter II: Conditions of access and exercise of the notary profession Section 1: Training and Appointment Article 10 The applicant to Notary profession must meet the following conditions: <ul style="list-style-type: none"> <li>being a citizen of Burundi or a citizen of a Country that grants reciprocity</li> </ul>	NT, MFN
Telecommunication Services	Telecommunication Services	no NCMs found			
Distribution Services	Retail	no NCMs found			
Distribution Services	Wholesale	no NCMs found			
Transport Services	Road transport	no NCMs found			

Sector	Subsector	Source law / regulation	Source details	Non-Conforming Measure (NCM)	Type of obligation (National Treatment or MFN)
Professional Services	Architecture	Architects and Quantity Surveyors Act (Chapter 525)	Section 7 (c)	No person shall be registered as an architect unless he... (c) has had a minimum of one year of professional experience in Kenya to the satisfaction of the Board or has satisfied the Board that he has otherwise acquired an adequate knowledge of Kenya building contract procedures	NT
Professional Services	Engineering	Engineers Act, 2011(Chapter 43):	Section 18 of the Engineers Act, 2011	Subject to provisions of this Act, a person shall be eligible for registration under this Act as a graduate engineer if that person (b) is a citizen or permanent resident of Kenya	NT
Professional Services	Engineering	Engineers Act, 2011(Chapter 43):	Section 20 (1) of the Engineers Act, 2011	Subject to the provisions of this Act, a person may register an engineering consulting firm if- (a) the firm has a certificate of registration of a business name or a certificate of incorporation; (c) at least fifty one percent of the shares in the firm are held by Kenyan citizens	NT
Professional Services	Engineering	Engineers Act, 2011(Chapter 43):	Section 22 of the Engineers Act, 2011	A foreign person or firm shall not be registered as a professional engineer or consulting engineer or engineering consulting firm unless- (a) in the case of a natural person- (i) that person possesses the necessary qualifications recognized for the practice of engineering as a professional engineer in the country where he normally practises and that immediately before entering Kenya he was practising as a professional engineer and holds a valid licence; and (ii) he is a resident of Kenya with a valid working permit	NT
Professional Services	Engineering	Engineers Act, 2011(Chapter 43):	Section 22 of the Engineers Act, 2011	A foreign person or firm shall not be registered as a. professional engineer or consulting engineer or engineering consulting firm unless- (b) in the case of a firm, the firm is incorporated in Kenya and a minimum of fifty one percent of its shares are held by Kenyan citizens	NT
Professional Services	Engineering	Engineers Act, 2011(Chapter 43):	Section 23 of the Engineers Act, 2011	(1) A foreign person may be considered for registration as a temporary professional engineer if that person satisfies the Board that— (a) he is not ordinarily resident in Kenya. (b) he intends to be present in Kenya in the capacity of professional engineer for the express purpose of carrying out specific work.	NT
Professional Services	Engineering	Engineers Act, 2011(Chapter 43):	Section 23 of the Engineers Act, 2011	(4) The registration of a person under this section shall be valid for the period or for the duration of the work specified by the Board; (6) Subject to subsection (4), the Board may approve temporary registration for such period not exceeding one calendar year	NT
Professional Services	Engineering	Engineers Act, 2011(Chapter 43):	Section 23 of the Engineers Act, 2011	(1) A foreign person may be considered for registration as a temporary professional engineer if that person satisfies the Board that— (5) Where the expertise skills of a person registered under this section are not available in Kenya, the Board shall notify the applicant and the applicant shall provide an undertaking that the locals shall be trained to fill the skills gap	NT

Sector	Subsector	Source law / regulation	Source details	Non-Conforming Measure (NCM)	Type of obligation (National Treatment or MFN)
Professional Services	Legal services	Advocates Act (Chapter 16)	Section 11 of the Advocates Act	The Attorney-General may, in his absolute discretion, admit to practise as an advocate, for the purpose of any specified suit or matter in or in regard to which the person so admitted has been instructed by the Attorney- General or an advocate, a practitioner who is entitled to appear before superior courts of a Commonwealth country, if such person has come or intends to come to Kenya for the purpose of appearing, acting or advising in that suit or matter and is not admitted (hereinafter in this section referred to as a "foreign advocate") shall not, for the purpose of that suit or matter, be deemed to be an unqualified person.	MFN
Professional Services	Legal services	Advocates Act (Chapter 16)	Section 11 of the Advocates Act	No foreign advocate shall be entitled to practise unless he is instructed by, and if appearing in court appears with, an advocate or any person mentioned in section 10, nor shall any foreign advocate be entitled to sign or file any pleadings in court.	NT
Professional Services	Legal services	Advocates Act (Chapter 16)	Section 13 (1) (b) and (c) of the Advocates Act	Having passed the relevant examinations of such university, university college or other institution as the Council of Legal Education may from time to time approve, he holds, or has become eligible for conferment of, a degree in law in the grant of that university, university college or institution which the Council may in each particular case approve... (c) he possesses any other qualifications which are acceptable to and recognized by the Council of Legal Education. Regulation (2) of the Advocates (Degree Qualifications) Regulations: 2. The degrees specified in the Schedule, granted after examination, of the Universities and University colleges specified in relation thereto in that Schedule, are prescribed for the purpose of section 13 (1) (b) of the Act. Schedule (r. 2) 1. The LL.B degree and higher degrees in law awarded by any of the following universities or university colleges- University of Aberdeen, University College Aberystwyth, The Queens University of Belfast, Etc.	MFN
Communication Services	Telecommunication Services	Liberalization commitment for 2015			
Distribution Services	Retail	Sector/subsector not committed			
Distribution Services	Wholesale	no NCMs found			
Transport Services	Road transport	Public Roads Toll Act	Second schedule	[Cannot copy exact text.] [Higher toll fees charged on foreign vehicles.]	MFN
Transport Services	Road transport	Public Roads Toll Act	The Traffic Rules, Section 7A	Section 7A: (1) Any person who brings a foreign vehicle to Kenya by road or by other means shall report the presence of such vehicle to a licensing officer at the nearest point of entry or at any Government office where vehicle licences are normally issued and shall submit an application in the prescribed form for an authorization permit which shall be accompanied by the foreign vehicle registration book. (2) For the purpose of this rule, the points of entry and exit shall be Lunga Lunga, Taveta, Namanga, Isebania, Busia, Malaba, Mandera, Moyale, Liboi, Keekorok, Oloitokitok, Lwakhakha, Kilindini, Lamu and Lokichogio.	NT

Sector	Subsector	Source law / regulation	Source details	Non-Conforming Measure (NCM)	Type of obligation (National Treatment or MFN)
Transport Services	Road transport	Public Roads Toll Act	The Traffic Rules, Section 7A	5) In the case of a foreign commercial or public service vehicle in respect of which there is not in force an international certificate or P.T.A. carrier licence the licensing officer may, on payment of the prescribed fee, issue in respect of the vehicle an authorization permit in the prescribed form valid for a period not exceeding thirty days but renewable on expiry for an aggregate period not exceeding twelve months from the date of entry into Kenya and the owner shall, on expiration of the authorization period, remove the vehicle from or send it out of Kenya: Provided that where the owner desires to keep the vehicle in Kenya for a period exceeding twelve months, he shall have the vehicle registered and licenced in Kenya before the expiry of the authorization period under this paragraph.	NT
Transport Services	Road transport	Public Roads Toll Act	The Traffic Rules, Section 94	(1) A motor vehicle in respect of which a valid international certificate is in force shall not be required to be registered under the Act while in use in Kenya until the expiry of one year from the date of the issue of such certificate. (2) A motor vehicle in respect of which a valid international certificate is in force shall not be required to be licensed under the Act while in use in Kenya during the currency of such certificate for a period or periods not exceeding in the aggregate – (a) in the case of a public service vehicle or commercial vehicle, 30 days; and (b) in the case of any other vehicle, 90 days.	NT
Transport Services	Road transport	Public Roads Toll Act	First Schedule	Cannot copy exact text.] [Foreign vehicles have to pay fees, depending on the time of circulation in Kenya and their weight.]	NT



Sector	Subsector	Source law / regulation	Source details	Non-Conforming Measure (NCM)	Type of obligation (National Treatment or MFN)
Professional Services	Accounting, auditing, bookkeeping	Law N° 11/2008 of 06/05/2008 establishing the Institute of Certified Public Accountants of Rwanda and determining its Powers, Organisation and Functioning	Article 58	For a person to be a Certified Public Accountant, he/she shall fulfill at least one of the following requirements: 1) to be a holder of the professional qualification of a certified public accountant issued by the Institute; 2) to be a holder of a professional qualification of a chartered accountant or certified public accountant issued by a body of professional accountants in another country which has full membership of IFAC (International Federation of Accountants).	MFN
Professional Services	Accounting, auditing, bookkeeping	Law N° 11/2008 of 06/05/2008 establishing the Institute of Certified Public Accountants of Rwanda and determining its Powers, Organisation and Functioning	Article 58	To be eligible for registration as a Certified Accounting Technician, a person shall fulfill any one of the following requirements: 1. to be a holder of the Certified Accounting Technician certificate awarded by the Institute; 2. to be a holder of a certified accounting technician certificate awarded by a body of professional accountants outside Rwanda which is a full member of IFAC	MFN
Professional Services	Accounting, auditing, bookkeeping	ICPAR Bi Law October 2012	Article 22	The Governing Council shall issue annual licenses to members in public practice of accountancy in Rwanda or who have applied to practice as long as they meet the requirements of Article 68 of the Law and are in good standing which will be determined by the Governing Council. For applicants that are not citizens of Rwanda, the following shall be required in addition to the requirement under Article 58 (2);  i. A person applying for iCPAR practice certificate must provide evidence of practical audit experience (recommendation letter) as required by Article 68 of the Law. The recommendation letter should be given by former immediate supervisor who must him/herself be a holder of a valid practice certificate of iCPAR or of another accounting body that is a member of IFAC. If at the time of applying for iCPAR practice certificate one is a non- resident but a member of EAC Institutes of Accountants ( EACIA), then in addition to the foregoing he/she must provide a certificate of practice issued by a competent authority ( Accounting body of EACIA in the country of former residence. In all cases, the applicant must be a member of iCPAR and a resident as shall be defined by the income tax Law from time to time	NT, MFN
Professional Services	Accounting, auditing, bookkeeping	ICPAR Bi Law October 2012	Article 68	Application to engage in the profession The application shall be supported by the following information: 1. certificate of membership; 2. evidence that the applicant is resident in Rwanda	NT
Professional Services	Architecture	Law N° 26/2012 of 29/06/2012 Governing the Professions of Architecture and Engineering and establishing the institute of architects and the institute of engineers in Rwanda.	Article 6	Requirements for admission to practice the profession of architecture:  For a person to be authorized to practice the architecture profession in Rwanda, he/she must meet the following conditions: 1. to be a Rwandan national. Admission requirements for foreigners to practice the profession of architecture in Rwanda: A foreigner who applies for the authorization to practice the architecture profession in Rwanda must fulfill the following conditions: 1. to hold a required degree; 2. to be a member of the Institute of those who practice such professions in his/her country of origin; 3. to be a national of a country which entered into a bilateral agreement authorizing Rwandan nationals to practise such profession	NT, MFN

Sector	Subsector	Source law / regulation	Source details	Non-Conforming Measure (NCM)	Type of obligation (National Treatment or MFN)
Professional Services	Architecture	Law N° 26/2012 of 29/06/2012 Governing the Professions of Architecture and Engineering and Establishing the Institute of Architects and the Institute of Engineers in Rwanda	Article 6	A foreign legal entity may be authorized to provide architecture or engineering services in Rwanda as long as reciprocity is admitted by the country in which it is registered, subject to bilateral agreements or regional integration treaties	MFN
Professional Services	Engineering	Law N° 26/2012 of 29/06/2012 Governing the Professions of Architecture and Engineering and Establishing the Institute of Architects and the Institute of Engineers in Rwanda	Article 6	Requirements for admission to practice the profession of engineering: For a person to be authorized to practice the engineering profession in Rwanda, he/she must meet the following conditions: 1. to be a Rwandan national. Admission requirements for foreigners to practice the profession of engineering in Rwanda: A foreigner who applies for the authorization to practice the engineering profession in Rwanda must fulfill the following conditions: 1. to hold a required degree; 2. to be a member of the Institute of those who practice such professions in his/her country of origin; 3. to be a national of a country which entered into a bilateral agreement authorizing Rwandan nationals to practise such profession	NT
Professional Services	Engineering	Law N° 26/2012 of 29/06/2012 Governing the Professions of Architecture and Engineering and Establishing the Institute of Architects and the Institute of Engineers in Rwanda	Article 6	A foreign legal entity may be authorized to provide architecture or engineering services in Rwanda as long as reciprocity is admitted by the country in which it is registered, subject to bilateral agreements or regional integration treaties.	MFN
Professional Services	Legal services	Law N° 3/98 of 19/03/1997 establishing Rwanda Bar Association	Article 6, 1	Nobody can practice the profession of lawyer nor other related duties without the following requirements: To be a Rwandan national. However, a foreigner may also be admitted to the Bar Association on condition of reciprocity or in accordance with international agreements to which Rwanda is a party.	NT
Telecommunication Services	Telecommunication Services	no NCMs found			
Distribution Services	Retail	n/a. "Unbound"	n/a		n/a
Distribution Services	Wholesale	n/a. "Unbound"	n/a		n/a
Transport services	Road transport	Guidelines No 005/TRANS-RURA/2011 of 26/08/2011 on public transport in Rwanda	Article 3 sect 2	Section 3.2: Requirements for a company to transport freight in Rwanda (2) An evidence that the company is registered "Business registration certificate" in Rwanda	NT
Transport services	Road transport	Guidelines No 005/TRANS-RURA/2011 of 26/08/2011 on public transport in Rwanda	Article 12 (5)	Article 12: Requirements to obtain a public transport service permit by foreign companies 5. An evidence that the company has been registered in the [Rwandan] "Registry of commerce"	NT



Sector	Subsector	Source law / regulation	Source details	Non-Conforming Measure (NCM)	Type of obligation (National Treatment or MFN)
Professional Services	Accounting, auditing, bookkeeping	Accountants and Auditors (Registration) Act, Chapter 286	Section 15 (1)	<p>Temporary registration as Certified Public Accountant or Auditor</p> <ol style="list-style-type: none"> <li>1. Where a person satisfies the Board— <ol style="list-style-type: none"> <li>a. That he is not ordinary resident public in Mainland Tanzania;</li> <li>b. That he is or intends to be present in Mainland Tanzania in the capacity of a professionally qualified accountant or auditor for the express purpose of carrying out a specific assignment for which he has been engaged; and</li> </ol> </li> <li>2. The National Board of Accountants and Auditors (Membership and Registration) By-laws, 1997 (Revised in 2012). <ol style="list-style-type: none"> <li>a. By-law 9 (1), (2), (3) and (4).</li> </ol> </li> <li>3. Any applicant who is a foreigner registered as a member of a professional accountancy body of equivalent standing existing outside Tanzania and a member in good standing of a professional accountancy body in his home country and enters Tanzania to work in a different capacity other than accounting or auditing may be considered for admission as temporary member provided that he fulfils conditions stipulated under by-law 9(1);</li> </ol>	NT
Professional Services	Accounting, auditing, bookkeeping	The National Board of Accountants and Auditors (Membership and Registration) By-laws, 1997 (Revised in 2012).	By-law 9 (1)	<p>Any applicant who is a foreigner may be considered for admission as a temporary member after fulfilling the following conditions:</p> <ol style="list-style-type: none"> <li>a. Complete a prescribed application form and submit it to the Board;</li> <li>b. Must be a member in good standing of a professional accountancy body of equivalent standing existing outside Tanzania and must have completed a professional accountancy course as per the International Education Standards (IES) issued by the International Accounting Education Standards Board (IAESB);</li> <li>c. Must be a member of a professional accountancy body of equivalent standing existing outside Tanzania and must have obtained the requisite practical experience in accordance with the national laws of the home country;</li> <li>d. Pass two conversion papers in local taxation and company law and on such other terms as the Board may, from time to time, determine;</li> <li>e. Provide proof of employment with a local employer;</li> <li>f. pay the appropriate application fees as shall be determined by the Board</li> </ol>	NT
Professional Services	Accounting, auditing, bookkeeping	The National Board of Accountants and Auditors (Membership and Registration) By-laws, 1997 (Revised in 2012).	By-law 9	<p>Applicants who are citizens of member states in East African Community shall have the same status as enshrined in the Mutual Recognition Agreement signed by the member states and approved by the Governing Board/Council of the respective country.</p> <p>Clause 5. (On reciprocal arrangement) - By this agreement:</p> <ol style="list-style-type: none"> <li>a. The qualifications of any professional from the East Africa Community Institutes of Accountants (EACIAs) will be recognized by another EACIA only if it is demonstrated that the professional accountant; <ul style="list-style-type: none"> <li>• Has completed a professional accountancy course as per the International Education Standards (IES) issued by the International Accounting Education Standards Board (IAESB);</li> <li>• Has obtained the requisite practical experience in accordance with national laws of the home country;</li> <li>• Is a member in good standing of the respective EACIA.</li> </ul> </li> <li>b. A professional accountant recognized under 5 (a) above shall on application qualify for registration as a member. For avoidance of doubt, the applicant will not be required to complete any other professional accountancy examination by the EACIA in order to be registered.</li> </ol>	MFN

Sector	Subsector	Source law / regulation	Source details	Non-Conforming Measure (NCM)	Type of obligation (National Treatment or MFN)
Professional Services	Accounting, auditing, bookkeeping	The National Board of Accountants and Auditors (Membership and Registration) By-laws, 1997 (Revised in 2012).	By-law 9	Where the partnership involves foreign partners, the local partners shall not constitute less than fifty percent, in any case, the majority of partners shall be the local partners;	NT
Professional Services	Architecture	sector not committed			
Professional Services	Engineering	Engineers Registration (Amendment) Act, No. 24, 2007	Section 11 (1) (c) of Cap 63 and Section 6 of the Amended Act, 2007	<p>Temporary Registration</p> <p>1. where a person satisfies the Board-</p> <p>a. That he is not ordinarily resident in Tanzania;</p> <p>b. That he is or intends to be present in Tanzania in the capacity of a professionally qualified engineer for the express purpose of carrying out specific work or works for which he has been engaged; and</p> <p>c. That he is, or immediately prior to entering Tanzania was in practice as an engineer in a capacity which satisfies the Board of his fitness to serve the public as a professionally qualified engineer,</p> <p>Provided that such qualifications, expertise and skills are not available amongst Tanzanian engineers or engineering technicians.</p> <p>The Board may if it thinks fit direct that person be registered under this section either for a period not exceeding one year or for the duration of any specific work or work</p> <p>3. Registration of a person under this section shall continue only for the period or for the duration of the work or works as is directed by the Board under subsection (1) and on its termination such person shall cease to be so registered and in case of doubt the decision of the Board as to the termination of the work or works shall be conclusive</p> <p>4. A person registered under this section shall, in relation to the period or the duration of the work or works as is directed by the Board under subsection (1) and to things done and omitted in the course of such work or works, be treated as registered under this Act as a registered but in relation to other matters shall be treated as not so registered.</p> <p>5. For the purpose of this section, the word person includes a body of persons corporate or unincorporated</p>	NT
Professional Services	Engineering	Engineers Registration (Amendment) Act, No. 24, 2007	Section 12 (1)(a)	<p>No person or body of persons not citizen of the United Republic shall be registered as a local consultant or consulting firm unless-</p> <p>a. In the case of natural person, he is a citizen of the United Republic;</p>	NT
Professional Services	Engineering	Engineers Registration (Amendment) Act, No. 24, 2007	Section 12 (1) (b)	<p>No person or body of persons not citizen of the United Republic shall be registered as a local consultant or consulting firm unless-</p> <p>b. In the case of a company, it is incorporated in Tanzania and the majority of its shares are owned by the citizens of the United Republic.</p>	NT

Sector	Subsector	Source law / regulation	Source details	Non-Conforming Measure (NCM)	Type of obligation (National Treatment or MFN)
Professional Services	Engineering	Engineers Registration (Amendment) Act, No. 24, 2007	Section 34	<p>With the consent of the Minister the By-laws Board may make by-laws for the better carrying, out of its objects and functions, and without prejudice to the generality of the proceeding provisions, may make bylaws-</p> <p>(a) Prescribing scale of fees which may be charged by engineers or consulting firms for services rendered by them;</p> <p>(f) Prescribing fees for admission to any course offered by the Board; I (g) prescribing fees payable by the candidates for any professional interview or examination held or conducted by the Board;</p> <p>(j) Prescribing the fees to be paid on application, registration, annual subscription; the issue of certificates of registration and extracts, copies and lists of, or in relation to entries in the registers and other related fees.</p> <p>First Schedule: Board Fees</p> <p>Section 11, (2) An application for registration under this section shall be in the prescribed form, accompanied by the prescribed fee, and the Board may require an applicant to appear before it for the purposes of considering his application and shall require every applicant to produce documentary evidence of his work or employment immediately prior to his entering Tanzania</p>	NT
Professional Services	Engineering	The Engineers Registration (Professional Examinations) By-Laws	Section 34	<p>Construction</p> <p>In these Regulations– (...)</p> <p>“foreign engineer” means a person who is an engineer but is not a citizen of Tanzania or is not a permanent resident of Tanzania;</p> <p>19. Foreign engineer to apply for registration while outside Tanzania</p> <p>All foreign engineers shall, as soon as practicable, apply for registration with the Board and those who are residing outside Tanzania must apply for registration before entering Tanzania or soon thereafter.</p> <p>30. Application for registration of Professional Engineers</p> <ol style="list-style-type: none"> <li>1. A person wishing to be registered as a Professional Engineer shall make an application to the Board in Form B-02 accompanied by a fee of such amount as the Board may prescribe.</li> <li>2. A foreign engineer desirous of being temporarily registered as Professional Engineer shall make an application to the Board in Form BF-02 accompanied by a fee of such amount as the Board may prescribe.</li> </ol> <p>36. Application forms</p> <ol style="list-style-type: none"> <li>1. A person wishing to be registered as a Consulting Engineer shall make an application to the Board in Form B-03 accompanied by a fee of an amount as the Board may prescribe, provided that the applicant has a practical experience of not less than three years as a registered Professional Engineer and has satisfied the Board as to his professional competency.</li> <li>2. Every foreign engineer desirous of being temporarily registered as a Consulting Engineer shall make an application to the Board in Form BF-01 accompanied by a fee of an amount as the Board may prescribe.</li> <li>3. Local Consulting Engineer shall practise either as sole proprietor or work with a registered Consulting firm or work under the Business Name and shall apply for a Business Licence.</li> <li>4. A foreign Consulting Engineer shall practise with a registered consulting firm.</li> </ol>	NT

Sector	Subsector	Source law / regulation	Source details	Non-Conforming Measure (NCM)	Type of obligation (National Treatment or MFN)
Professional Services	Engineering Telecommunication Services	Fees for application and registration G.N.No. 487 of 2002	Regulation 2(2)	<p>Second Schedule</p> <p>Category of engineers subsectorification Local/foreign (level fees)</p> <p>Application form Application fee Registration fee Rubber stamp Annual fee</p> <p>T.Shs USD T.Shs USD T.Shs USD T.Shs USD T.Shs USD</p> <p>Graduate Technician Engineer Local - - 2,000 - 5,000</p> <p>Graduate Engineer Local - - 2,000 - 5,000</p> <p>Technician Engineer Local 2,000 10,000 10,000 - 15,000</p> <p>Professional Local 2,000 10,000 20,000 15,000 20,000</p> <p>Engineer Foreign 5 100 400 25</p> <p>Consulting Local 2,000 20,000 30,000 15,000 30,000</p> <p>Engineer Foreign 5 100 500 25 400</p> <p>Consulting Local 4,000 60,000 100,000 20,000 200,000</p> <p>Firm Foreign 10 1,000 10,000 35 4,000</p>	NT
Professional Services	Legal services	Sector not committed			
Communication Services	Telecommunication services	Liberalization commitments for 2015			
Distribution Services	Retail	Sector/subsector not committed			
Distribution Services	Wholesale	Sector/subsector not committed			
Transport services	Road transport	The Foreign Vehicles Transit Charges Act - Cap. 84 Of The Revised Edition 2002	Section 3	<p>1. There is imposed a transit charge on the use of foreign vehicles on public roads in Mainland Tanzania, payable by every person in respect of the foreign vehicle he drives along a public road.</p> <p>2. The transit charge payable under this Act shall be paid upon the foreign vehicle in question passing through the entry point along a public road.</p> <p>3. There shall be levied and paid in accordance with the rates prescribed in the Schedule to this Act, the transit charges in respect of a vehicle passing through the entry point along a public road for the whole of the distance to be covered by the vehicle in while in the country</p>	NT
Transport services	Road transport	The Foreign Vehicles Transit Charges Act - Cap. 84 Of The Revised Edition 2002	Section 11	<p>1. Any person who -</p> <p>a. drives a foreign vehicle through the entry point except by the route designated for the passage of that vehicle; or A</p> <p>b. refuses to stop a foreign vehicle at the entry point and to pay transit charge; or</p> <p>c. fraudulently or forcibly drives a foreign vehicle through the entry point or without paying the transit charge; or</p> <p>d. having collected any transit charge fails or refuses to remit the money collected as transit charge money to the Commissioner or to any other authorized person; or</p> <p>e. obstructs any public officer in exercise of the powers conferred upon him by section 8 or section 9; or</p> <p>f. refuses to answer any reasonable question put to him by such public officer is guilty of an offence and shall be liable on conviction to a fine not exceeding US\$ 500 or imprisonment of a term not exceeding six months, or to both:</p> <p>2. In addition to the penalty imposable under subsection (1), the court shall order the offender to pay the prescribed transit charge where the offence is one of failing or refusing to pay the transit charge or to remit to the Commissioner the transit charge collected.</p> <p>SCHEDULE A</p>	NT

Sector	Subsector	Source law / regulation	Source details	Non-Conforming Measure (NCM)	Type of obligation (National Treatment or MFN)
Transport services	Road transport	The Motor Vehicles Insurance Act Chapter 169	Section 17	Where there is in existence in respect of a motor vehicle - a. a valid and subsisting international certificate issued in pursuance of the International Convention relative to Motor Traffic, 1926; or b. a valid and subsisting licence to use such motor vehicle which has been granted under any law in force in Malawi, Kenya, Tanzania Zanzibar, Uganda or Zambia, c. no person driving such motor vehicle shall be required to produce a certificate of insurance, but it shall be the duty of such person to give such information as he may be required by or on behalf of the Commissioner of Police to give for the purpose of determining whether the vehicle was or was not being driven in contravention of section 4 of this Act.	MFN
Transport services	Road transport	Kanuni Za Leseni Ya Usafirishaji ( Magari Ya Kubeba Mizigo) - Notise Ya Serikali Na. 90/2012	Section 11	Kanuni 11(1) Mamlaka itatoa kibali cha kubeba mizigo au kibali kwa magari yanayovuka mipaka kwa mujibu wa mikatana yoyote ya makubaliano ya nchi mbili au makubaliano ya kikanda ambayo Tanzania imeingia. (2) Kibali cha magari kilichotolewa chini ya kanuni ndogo ya (1) kitatolewa kwa magari yenye leseni	MFN
Transport services	Road transport	Kanuni Za Leseni Ya Usafirishaji ( Magari Ya Kubeba Mizigo) - Notise Ya Serikali Na. 90/2012	Section 11	(3) Kibali cha magari yanayovuka nje ya mipaka kitatolewa kwa magari ya nje badala ya kulipa ada iliyowekwa katika Jedwali la Pili la kanuni hizi	MFN
Transport services	Road transport	Kanuni Za Leseni Ya Usafirishaji ( Magari Ya Kubeba Mizigo) - Notise Ya Serikali Na. 90/2012	Schedule 2	Imetengenezwa Chini Ya Kanuni Ya 10 Jedwali ya ada za leseni kwa ajili ya magari ya kubeba ya ndani nay a nje.	NT
Transport services	Road transport	The Road Traffic Act, Cap 168	Section 36	'Partner States' means the United Republic of Tanzania the Republic of Uganda and the Republic of Kenya; Any person who a. is disqualified from obtaining a driving licence; or b. has had his driving licence cancelled; or c. in any way if prohibited from driving any sub-sector of motor vehicles, in any of the Partner States shall be subject to the same disqualification cancellation or prohibition m Tanganyika as if such disqualification, cancellation or prohibition had been imposed by a court in Tanganyika	MFN



Sector	Subsector	Source law / regulation	Source details	Non-Conforming Measure (NCM)	Type of obligation (National Treatment or MFN)
Professional Services	Accounting, auditing, bookkeeping	The Accountants Act Chapter 266	Section 49 (1)	<p>Eligible persons for first enrollment</p> <ol style="list-style-type: none"> <li>At the commencement of this Act, and before the council prescribes the qualifying examination and the societies equivalent to the institute - <ol style="list-style-type: none"> <li>a member of any of the institutes specified in the Fifth Schedule to this Act may, on application to the interim council, be enrolled a full member of the institute; or</li> <li>a person who is not a member of any of the institutes specified in the Fifth Schedule to this Act but who - <ol style="list-style-type: none"> <li>has practical experience in accountancy or audit; and</li> <li>is practising accountancy or audit or is employed in the field of accountancy or audit, may, on application to the interim council, be enrolled as an associate member of the institute.</li> </ol> </li> </ol> </li> </ol> <p>Fifth Schedule - Recognized institutes for first enrollment:</p> <ol style="list-style-type: none"> <li>The American Institute of Certified Public Accountants, CPA (USA).</li> <li>The Association of International Accountants of UK.</li> <li>The Canadian Institute of Chartered Accountants, ICA (Canada).</li> <li>The Chartered Association of Certified Accountants (ACCA).</li> <li>The Chartered Institute of Management Accountants (CIMA).</li> <li>The Chartered Institute of Public Finance and Accountancy (CIPF).</li> <li>The Institute of Certified General Accountants of Canada.</li> <li>The Institute of Certified Public Accountants of Kenya, ICPA (K).</li> <li>The Institute of Chartered Accountants in England and Wales, ICA (E&amp;W).</li> <li>The Institute of Chartered Accountants in Ireland.</li> <li>The Institute of Chartered Accountants in Scotland, ICA (S).</li> <li>The Institute of Chartered Accountants of India, ACA (India).</li> <li>The Institute of Chartered Managers and Administrators, ICMA (UK).</li> <li>The Institute of Chartered Secretaries and Administrators, ICSA.</li> <li>The National Board of Accountants and Auditors (NBAA) of Tanzania.</li> </ol>	MFN

Sector	Subsector	Source law / regulation	Source details	Non-Conforming Measure (NCM)	Type of obligation (National Treatment or MFN)
Professional Services	Architecture	The Architects Registration Act Chapter 269	Section 11 (1), 11 (2), 11 (3) and 11 (4)	<p>Temporary registration</p> <ol style="list-style-type: none"> <li>1. Where any person satisfies the board that -               <ol style="list-style-type: none"> <li>b. he or she is not ordinarily resident in Uganda</li> <li>c. he or she is, or immediately prior to entering Uganda was, in practice as an architect in that capacity as to satisfy the board of his or her fitness to serve the public as a professionally qualified architect, the board may authorize the registrar to register that person only for the duration of the period of any specific work for which he or she has been engaged; provided he or she satisfies the board, he or she may carry out work with a registered architect.</li> </ol> </li> <li>3. The board may require the person applying for registration under this section to appear before it for the purpose of considering his or her application but shall require that applicant to produce documentary evidence to support his or her application.</li> <li>4. Registration of any person under this section shall continue only for the period or for the duration of the specific work or works as is directed by the board under subsection (1), and on its termination that person shall cease to be registered; and in case of any doubt, the decision of the board regarding the termination of the work or works shall be conclusive</li> </ol>	NT
Professional Services	Architecture	The Architects Registration (Prescription of Forms and Fees) Regulations Statutory Instrument 269 – 1	Schedules	<ol style="list-style-type: none"> <li>1. First Schedule – Forms;               <ol style="list-style-type: none"> <li>a. Form TR part 14 and notes 2 (as against Ugandans who only need to provide references not signatures) and 3</li> <li>b. Form TPC validity</li> <li>c. Form AR note 3 – noncitizens</li> <li>d. No Registration Certificate for Temporary Applicants</li> </ol> </li> </ol> <p>[A person cannot practice in his/her own account. He/she must practice under a local professional.] [Long form not shown for reasons of space]</p>	NT
Professional Services	Architecture	The Architects Registration (Prescription of Forms and Fees) Regulations Statutory Instrument 269 – 1	Schedules	<p>Second Schedule – Forms and fee schedules [Higher fees required of foreign nationals.] [Long form not shown for reasons of space]</p>	NT
Professional Services	Engineering	Engineers Registration Act of Uganda Chapter 271	Section 1 (e); 2. Section 21 (1), 21 (2), 21 (3), 21 (5), 21 (6), 21 (7)	<p>In this Act, unless the context otherwise requires -</p> <ol style="list-style-type: none"> <li>e. “Ordinarily resident” means resident in the country for more than six months of each year for five consecutive years</li> </ol> <p>Section 21 Temporary registration</p> <ol style="list-style-type: none"> <li>1. Where a person satisfies the board -               <ol style="list-style-type: none"> <li>a. that he or she is not ordinarily resident in Uganda</li> </ol> </li> </ol>	NT

Sector	Subsector	Source law / regulation	Source details	Non-Conforming Measure (NCM)	Type of obligation (National Treatment or MFN)
Professional Services	Legal services	Advocates Act Chapter 267	Section 8 (5)(b) (includes Regulation 4 (1) (d))	<p>This section applies to a person who is a Uganda citizen or who normally resides in Uganda, and who— (b) prior to his or her application, has been in practice as a legal practitioner (by whatever name called) for an aggregate period of not less than five years in any country designated by the Law Council by regulations for the purposes of this section.</p> <p>Regulation 2(b)</p> <p>The requirements as to the acquisition of professional skill and experience under section 8(1) of the Act shall be— (b) in the case of a person specified in section 8(5)(b) of the Act who has been entered on the roll as a legal practitioner (by whatever name called) in a country specified in Part I of the First Schedule to these Regulations, work under the surveillance and in the chambers of an advocate enrolled under the Act or in the service of the Government as a State attorney at the commencement of his or her practice in Uganda for a period of not less than six months and who satisfies any regulations which may be made under section 8(7) of the Act</p> <p>Regulation 4 (1) (d)</p> <p>4. (1) In application for the certificate under section 8(2) of the Act, there shall be stated-</p> <p>(d) if the applicant was not born in Uganda, the aggregate period of continuous residence in Uganda during the twelve months immediately preceding the date of the application or the aggregate period during which he or she has been in practice as an advocate in any of the countries specified in Part II of the First Schedule to these Regulations</p>	NT
Professional Services	Legal services	Advocates Act Chapter 267	Section 13 (1) (2)	<p>(1) Notwithstanding the other provisions of this Part, the Chief Justice may, subject to the person obtaining a special practising certificate, admit to practise as an advocate for the purpose of any one case or matter any legal practitioner (by whatever name called) of any country designated by regulations made under section 8(5)(b) who has come or intends to come to Uganda for the purpose of appearing or acting in that case or matter; but any such person shall only be entitled to appear or act— (a) in the case or matter for the purpose of which he or she is admitted; and (b) if he or she is instructed by, and if when appearing in any court in the conduct of the case or matter he or she appears together with, an advocate with a valid practising certificate or a person mentioned in section 6.</p> <p>(2) On payment of the prescribed fee for such a special practicing certificate, the registrar shall issue a special practising certificate to any person admitted to practise under subsection (1).</p>	NT
Communication Services	Telecommunication Services	no NCMs found			
Distribution Services	Retail	no NCMs found			
Distribution Services	Wholesale	Trade Licensing Act Chapter 101	Section 3 (b)	<p>Section 3 Declaration of business areas and trading centres</p> <p>The Minister may, from time to time, by statutory order, declare -</p> <p>(b) any trading centre to be an area in which a person who is not a citizen of Uganda is prohibited from trading.</p>	NT

Sector	Subsector	Source law / regulation	Source details	Non-Conforming Measure (NCM)	Type of obligation (National Treatment or MFN)
Distribution Services	Wholesale	Trade Licensing Act Chapter 101	Section 5	<p>Section 5 Restriction on trading by noncitizens in certain areas and goods</p> <ol style="list-style-type: none"> <li>1. Subject to subsection (3), it shall not be lawful for any person who is not a citizen of Uganda -               <ol style="list-style-type: none"> <li>a. to trade outside any city, municipality or town;</li> <li>b. to trade in any trading centre in respect of which an order made under section 3(b) is in force;</li> <li>c. to trade in any area of any city, municipality or town which has not been declared, under section 3, a general business area; or</li> <li>d. to trade in specified goods which are not endorsed on his or her licence.</li> </ol> </li> <li>2. Subject to subsection (3), it shall not be lawful for any person -               <ol style="list-style-type: none"> <li>a. who is a citizen of Uganda to trade either directly or indirectly on behalf of any person who is not a citizen of Uganda whether under a licence granted to that citizen of Uganda or in any other way; or</li> <li>b. who is not a citizen of Uganda to engage or allow a person who is a citizen of Uganda to trade either directly or indirectly on his or her behalf, whether under a licence granted to that citizen of Uganda or in any other way, in any area or goods in which that person is, under this Act, prohibited from trading.</li> </ol> </li> </ol>	NT
Distribution Services	Wholesale	Trade Licensing Act Chapter 101	Presumptions.	(2) For the purposes of this Act, a "company" whether incorporated in Uganda or not and a "firm" the firm name of which is registered in Uganda, shall be regarded as a citizen of Uganda if in the case of a company, more than 50 percent of its share capital, or in the case of a firm, more than 50 percent of its partnership property, is held by or on behalf of persons who are citizens of Uganda; and a statutory declaration made by a director, partner or other person responsible for the management of that company or firm that to the best of his or her knowledge and belief more than 50 percent of the share capital of the company or more than 50 percent of the partnership property of the firm, is so held, shall be prima facie evidence that it is so held.	NT
Distribution Services	Wholesale	The Specified Goods (Conveyance) Act Chapter 359	Schedule and Section 6, 7, 8(3) and (4) and 9	<p>An Act to provide for the control of the means of conveyance of certain goods to and from the Republics of Sudan, the Congo and Rwanda.</p> <p>1.- Schedule</p> <p>The Specified Goods (Conveyance) Regulations Statutory Instrument 359-1</p> <p>1.- Section 6, 7, 8(3) and (4) and 9</p> <p>Description:</p> <p>Schedule.</p> <p>Restricted goods.</p> <p>Coffee</p> <p>Tea</p> <p>Petroleum products and lubricants excluding high octane aviation spirit</p> <p>6. Exportation and importation of specified goods prohibited.</p> <p>No person may export or import specified goods to or from...</p>	MFN

Sector	Subsector	Source law / regulation	Source details	Non-Conforming Measure (NCM)	Type of obligation (National Treatment or MFN)
Uganda	Transport Services	Road transport	The Specified Goods (Conveyance) Act Chapter 359; The Specified Goods (Conveyance) Regulations Statutory Instrument 359-1	<p>Measure: The Specified Goods (Conveyance) Act Chapter 359 An Act to provide for the control of the means of conveyance of certain goods to and from the Republics of Sudan, the Congo and Rwanda.</p> <ol style="list-style-type: none"> <li>Section 2(a)</li> <li>Schedule</li> </ol> <p>The Specified Goods (Conveyance) Regulations Statutory Instrument 359-1</p> <ol style="list-style-type: none"> <li>Section 3</li> <li>First Schedule</li> </ol> <p>Description: 2. Regulations. The Minister may, by statutory instrument, make regulations prescribing - (a) the routes on which any goods specified in the Schedule to this Act may be conveyed in or out of Uganda, ...</p>	MFN

## NON-CONFORMING MEASURES IN AIR TRANSPORT

Partner State	Source law / regulation	Source details	Non-conforming measure (NCM)
Burundi	Creation of the Autonomous Administrative Entity called « AIR BURUND », Law No 1/99 of 17 April 1975	Article 3	The Government of Burundi grants to Air Burundi: The exclusivity to operate scheduled or non scheduled air transport within the territory of Burundi.
Kenya	Civil Aviation Act, 2013, Section 4 (1)(a) Civil Aviation (Aircraft Nationality and Registration Marks) Regulations 2013	Section 4 (1) (a) Civil Aviation (Aircraft Nationality and Registration Marks) Regulations 2013	Eligibility for registration 4(1) An aircraft is eligible for registration if it is- a. The Government of Kenya b. Citizens of Kenya or persons bona fide resident in Kenya
Kenya	Civil Aviation Act, 2013, Section 4 (1)(a) Civil Aviation (Aircraft Nationality and Registration Marks) Regulations 2013	Section 4 (2) Civil Aviation (Aircraft Nationality and Registration Marks) Regulations 2013	4(2) The following persons shall be qualified to be the owners of a legal or beneficial interest in an aircraft registered in Kenya, or a share therein— c. The Government of Kenya d. Citizens of Kenya or persons bona fide resident in Kenya
Kenya	The Civil Aviation (Air Operator Certification and Administration) Regulations 2007	Section 23 (4) Dry leasing of foreign registered aircraft	The total number of dry leased aircraft shall be such that an air operator certificate holder will not be predominantly dependent on foreign registered aircraft.
Kenya	The Civil Aviation (Air Operator Certification and Administration) Regulations 2007	Charges for air navigation services and regulatory fees	7. Grant/issue or renewal of an approval for Aircraft Maintenance Organisation (AMO). Section C 8: air operator's certificate (AOC) A: AOC Inspections
Rwanda	Presidential Order No 60/01 of 20/10/2008 on the civil aviation (Air Operator Certification and Administration) Regulations, 2008	Section 5(1)(a)	Issuance of air operator certificate (1) The Authority may issue an air operator certificate to an applicant if that applicant: (a) has its principal place of business and it is registered in Rwanda
Rwanda	Presidential Order No 60/01 of 20/10/2008 on the civil aviation (Air Operator Certification and Administration) Regulations, 2008	Section 11(1)	Base of operations 1. An air operator certificate holder shall maintain a principal base of operations in Rwanda.
Rwanda	Presidential Order No 60/01 of 20/10/2008 on the civil aviation (Air Operator Certification and Administration) Regulations, 2008	Section 19 (2)	Dry leasing of registered aircraft (1) An air operator certificate holder shall not operate a foreign registered aircraft unless: (a) there is in existence a current agreement between the Authority and the State of registry that, while the aircraft is operated by the Rwandan air operator certificate holder, these Regulations governing the issuance of the Rwandan air operator certificate and its operation specification shall apply;
Rwanda	Presidential order No 60/01 of 20/10/2008 on the Civil Aviation (Aircraft Registration and Markings) Regulations, 2008	Section 3 (1)(a)(b), (2)(a)	Pursuant to sub-regulation (2), an air operator certificate holder may operate a foreign registered aircraft for a period not exceeding six consecutive months.
Rwanda	Presidential Order No 60/01 of 20/10/2008 on the civil aviation (Approved Maintenance Organization) regulations, 2008	Section 3: General	A person shall not operate an aircraft, as classified in the First Schedule to these Regulations, within or fly over Rwanda unless: (b) it is registered in- (i) a Contracting State; or (ii) some other State in relation to which there is in force an agreement between the Government of Rwanda and the Government of that State which makes provisions for the flight over Rwanda of aircraft registered in that State.

Partner State	Source law / regulation	Source details	Non-conforming measure (NCM)
Rwanda	Presidential Order No 60/01 of 20/10/2008 on the civil aviation (Approved Maintenance Organization) regulations, 2008	Section 4	Eligibility for Registration (2)The following persons shall be qualified to be the owners of a legal or beneficial interest in an aircraft registered in Rwanda, or a share therein— (a) the Government of Rwanda or one of its entities; (b) citizens of Rwanda or persons legally and bonafide resident in Rwanda;
Rwanda	Presidential Order No 60/01 of 20/10/2008 on the civil aviation (Approved Maintenance Organization) regulations, 2008	Section 4	Eligibility for Registration (2)The following persons shall be qualified to be the owners of a legal or beneficial interest in an aircraft registered in Rwanda, or a share therein— (c) bodies corporate incorporated under the laws of Rwanda that are controlled in fact by citizens of Rwanda or persons legally and bonafide resident in Rwanda and of which at least seventy-five percent, or such lesser percentage as the Minister may by Order specify, of the voting interests are owned and controlled by citizens of Rwanda or persons legally and bonafide resident in Rwanda;.
Rwanda	Presidential Order No 60/01 of 20/10/2008 on the civil aviation (Approved Maintenance Organization) regulations, 2008	Section 7	Application of certificate of airworthiness (1) An owner or his representative of an aircraft registered in Rwanda may apply to the Authority for issue of a certificate of airworthiness for that aircraft.
Rwanda	Presidential Order No 60/01 of 20/10/2008 on the civil aviation (Approved Maintenance Organization) regulations, 2008	Section 10	Air Navigation and VSAT charges: (2) When flights cross international FIR boundaries or international border of States where air traffic control centres are equipped with a SADC VSAT satellite communications system, SAT Network flat rate charge for South African Development Community (SADC) is levied
Rwanda	Presidential Order No 60/01 of 20/10/2008 on the civil aviation (Approved Maintenance Organization) regulations, 2008	Section 6	Grant of License An application shall be granted and a license issued or amended if the applicant satisfies the Authority that: (a)if he is a natural person, he is a citizen or resident of Rwanda or if not a natural person, is incorporated in Rwanda and 51% of the voting rights in respect of such person is held by citizens and/or residents of Rwanda; and
Rwanda	Presidential Order No 60/01 of 20/10/2008 on the civil aviation (Approved Maintenance Organization) regulations, 2008	Section 6	Grant of License An application shall be granted and a license issued or amended if the applicant satisfies the Authority that: (b)the aircraft which will be used in operating the air service is a Rwandan aircraft, provided that the Authority may, after considering an application, accept such other foreign registered aircraft subject to the conditions deemed fit regarding the operations and maintenance of the aircraft concerned
Rwanda	Presidential Order No 60/01 of 20/10/2008 on the civil aviation (Approved Maintenance Organization) regulations, 2008	Section 11	International air services to be licensed Notwithstanding the provisions of sub-regulation (1), no license shall be required in respect of an international scheduled air transport service operated by an airline of another State under and in accordance with: (a) any bilateral or multilateral agreement concluded between the Government of Rwanda and such other State or States; and
Rwanda	Presidential Order No 60/01 of 20/10/2008 on the civil aviation (Approved Maintenance Organization) regulations, 2008	Section 6	An undertaking whose principal place of business is within Rwanda shall not be designated in order to establish a scheduled air transport service between Rwanda and any other State or territory except if: (a) he is a natural person, he is a citizen or resident of Rwanda; or
Rwanda	Presidential Order No 60/01 of 20/10/2008 on the civil aviation (Approved Maintenance Organization) regulations, 2008	Section 6	An undertaking whose principal place of business is within Rwanda shall not be designated in order to establish a scheduled air transport service between Rwanda and any other State or territory except if: (b) not a natural person, is incorporated in Rwanda and 51% of the voting rights in respect of such person are held by citizens and/or residents of Rwanda; provided that if an applicable bilateral or multilateral agreement provides otherwise, the bilateral or multilateral agreement shall prevail

Partner State	Source law / regulation	Source details	Non-conforming measure (NCM)
Rwanda	Presidential Order No 60/01 of 20/10/2008 on the civil aviation (Approved Maintenance Organization) regulations, 2008	Section 15	Matters to be taken into account An application shall be granted or a permit issued or a license varied, subject to the provisions of these regulations, if the applicant satisfies the Authority that: (f) fair and equal opportunity and reciprocal treatment may be accorded by the State of the applicant for any air carriers whose principal place of business and place of registration is within Rwanda.
Rwanda	Presidential Order No 60/01 of 20/10/2008 on the civil aviation (Approved Maintenance Organization) regulations, 2008	Section 18	Validation of Aircraft Maintenance Engineer License (1) A person who holds a current and valid Aircraft Maintenance Engineer License issued by another Contracting State may apply for and may be issued a certificate of validation with the appropriate rating, if the applicant: 3) A person who receives a certificate of validation under this Regulation shall: (a) be limited to the privileges placed on the certificate; (b) be subject to the limitations and restrictions on the certificate and the foreign Aircraft Maintenance Engineer License when exercising the privileges of that certificate on an aircraft registered in Rwanda; and
Rwanda	Presidential Order No 60/01 of 20/10/2008 on the civil aviation (Approved Maintenance Organization) regulations, 2008	Section 19	Conversion of foreign Aircraft Maintenance Engineer License (5) The Authority may transfer a type rating from a foreign license for the purpose of conversion of Aircraft Maintenance Engineer License if: (a) the aircraft type is endorsed on a foreign license; (b) that applicant is current on the aircraft type; and (c) the type of aircraft is registered in Rwanda.
Uganda	The Airport Service Charges Act Chapter 353	Section 2(1)	Imposition of service charge. (1) Subject to this section, the amount of airport charges payable by a passenger departing by aircraft from any airport in Uganda in respect of each flight to a destination outside Uganda shall, in respect of— (a) a non-Ugandan passport holder, be twenty United States dollars;
Uganda	The Civil Aviation (Air Operator Certification and Administration) Regulations No. 26 of 2012	Regulation 6(a)	Issuance of Air Operator Certificate. (1) The Authority may issue an air operator certificate (AOC) to an applicant if that applicant – (a) has its principle business and it is registered in Uganda
Uganda	The Civil Aviation (Aircraft Registration and Marking) Regulations	Regulation 4	Eligibility for registration. (1) An aircraft is eligible for registration if it is – (a) Owned by a citizen of Uganda, an individual citizen of a foreign State who is lawfully admitted for residence in Uganda, a cooperation lawfully organised and doing business under the Laws of Uganda or a government entity of Uganda, and
Tanzania	The Civil Aviation (Air Operator Certification and Administration) Regulations, 2011	Regulation 6(1)	The Authority may issue an air operator certificate (AOC) to an applicant if that applicant – (a) has its principal place of business and it is registered in the United Republic of Tanzania
Tanzania	The Civil Aviation (Air Operator Certification and Administration) Regulations, 2011	Regulation 12(1)	Air operator certificate (AOC) holder shall maintain a principal base of operations in the United Republic of Tanzania
Tanzania	The Civil Aviation (Air Operator Certification and Administration) Regulations, 2011	Regulation 23(1) (2) (3)	Dry leasing of foreign registered aircraft 23 (1) An air operator certificate (AOC) holder may dry-lease a foreign-registered aircraft for commercial air transport as authorised by the Authority (2) An AOC holder shall not operate a foreign registered aircraft unless; (a) there is in existence a current agreement between the Authority and the State of Registry that, while the aircraft is operated by a United Republic of Tanzania AOC holder, these Regulations governing the issuance of the United Republic of Tanzania AOC and its operation specification shall apply (b) while the aircraft is operated by the AOC holder, the Airworthiness Regulations of the State of Registry are applicable; or
Tanzania	The Civil Aviation (Air Operator Certification and Administration) Regulations, 2011	Regulation 23(1) (2) (3)	Pursuant to sub-regulation (2), an AOC holder may operate a foreign registered aircraft for a period not exceeding six consecutive months.

Partner State	Source law / regulation	Source details	Non-conforming measure (NCM)
Tanzania	The Civil Aviation (Aircraft Registration And Marking) Regulations, 2011	Regulation 4(1)	An aircraft is eligible for registration if it is- (a) owned by a citizen of the United Republic of Tanzania; (b) a corporation lawfully organized and doing business under the laws of the United Republic of Tanzania; (c) is owned by an individual citizen of a foreign State who is lawfully admitted for residency in the United Republic of Tanzania;
Tanzania	The Civil Aviation (Aircraft Registration And Marking) Regulations, 2011	Regulation 4(2)	The following persons shall be qualified to be the owners of a legal or beneficial interest in an aircraft registered in the United Republic of Tanzania, or a share therein- (a) the Government of the United Republic of Tanzania; (b) citizens of the United Republic of Tanzania or persons bona fide resident in the United Republic of Tanzania; (c) such other persons as the Authority may approve, on condition that the aircraft is not used for commercial air transport, flying training or aerial work and such other conditions as the Authority may specify; and bodies corporate (i) established under subject laws of the United Republic of Tanzania; or (ii) established under and subject to the laws of such country as the Authority may approve
Tanzania	The Tanzania Civil Aviation (Economic Regulation) Regulations, 2006	Regulation 4 (1)	An undertaking shall be eligible for designation on regional or international operations, if it meets the requirements of regulation 3, applicable air services licensing regulations and the following criteria - (a) Is substantially owned and effectively controlled by the United Republic or nationals of the United Republic or has its principal place of business in the United Republic and the Authority maintains effective regulatory control over it
Tanzania	The Tanzania Civil Aviation Ground Handling Services Regulations, 2007	Regulation 6	No undertaking shall provide airport ground handling services without having a ground handling licence issued under these Regulations. (2) No undertaking shall be granted a ground handling licence unless: (a) its principal place of business and its registered office are located in the United Republic of Tanzania
Tanzania	The Tanzania Civil Aviation Ground Handling Services Regulations, 2007	Regulation 6	No undertaking shall be granted a ground handling licence unless: (b) the undertaking is owned by Tanzanians by at least thirty five percent of total shares
Tanzania	Tanzania Civil Aviation (Licensing of Air Services) Regulations, 2006	Regulation 17(1)	An air carrier whose principal place of business is in a State, other than the United Republic shall not operate a scheduled air service to, from or across the United Republic unless there is in force an operating authorization for that air service issued by the licensing authority in accordance with regulation 20(1).
Tanzania	Aeronautical Info Circulars Landing-Charges- For- Tanzania- Registered- Aircraft- Circular – 2013 Revised Charges For Air Navigation Services - Dar Es Salaam Flight Information Region- 2012	Schedule of fees	Aeronautical Fees: 2. Landing Charges Aerodromes Charges per 1,000 or part thereof Aircraft registered in Tanzania Foreign Registered Aircraft Dar es salaam,Kilimanjaro,Zanzibar and Pemba Tshs. 5,500.00 US \$ 5.00 Dodoma,Kigoma,Mtwara,Mwanza,Songea, Tanga and Tabora Tshs. 4,950.00 US \$ 4.50 Arusha,Bukoba,Biharamulo,Iringa,Kilwa Masoko,Lake Manyara,Lindi,Mafia,Mbeya, Moshi,Musoma,Nachingwea,Njombe and Shinyanga Tshs. 4,400.00 US \$ 4.00 Other Government Aerodromes Tshs. 3,300.00 US \$ 3.00
Tanzania	Aeronautical Info Circulars Landing-Charges- For- Tanzania- Registered- Aircraft- Circular – 2013 Revised Charges For Air Navigation Services - Dar Es Salaam Flight Information Region- 2012	Schedule of fees	Aeronautical Fees: 3. Parking Charges Aircraft Weight Charges Per Aircraft (after the first two hours) Aircraft Registered in Tanzania Foreign Registered Aircraft Up to 20,000 Kg Tshs 1000 per 12 hours or part thereof US \$5.00 per 12 hours or part thereof 20,000Kg - 60,000 Kg Tshs 1000 per 6 hours or part thereof US \$5.00 per 6 hours or part thereof More than 60,000 Kg Tshs 1000 per hour or part thereof US \$5.00 per hour or part thereof

## NCMS IN CROSS-CUTTING LAWS AND REGULATIONS

Partner State	Source	Type of law / regulation	Source details	Non-conforming measure (NCM)
Burundi	Company law	Company		No NCMs identified.
Burundi	Investment law	Investment		No NCMs identified.
Kenya	Company law	Company		No NCMs identified.
Kenya	Investment Promotion Act, 2004	Investment	Section 4	An applicant shall be entitled to an investment certificate if - (b) the amount to be invested by a foreign investor is at least one hundred thousand United States of America dollars or the equivalent in any currency
Rwanda	Law n°07/2009 of 27/04/2009 relating to companies	Company	Article 323	Registration of foreign companies Every foreign company shall, before starting business file the following with the Registrar General : 1. a duly authenticated copy of its articles of association and the certificate of its registration delivered by the registration officer; 2. a duly authenticated copy of its certificate of incorporation, articles of association, memorandum of association depending on where it was established and any other instrument constituting or defining its being established; 3. a list of its directors residing in Rwanda
Rwanda	Law N° 26/2005 of 17/12/2005 relating to investment and export promotion and facilitation	Investment	Article 2(5)	Article 2 (5°): definition of "Foreign investor" Means a physical person, a business company or a partnership that invests a minimum financial capital equivalent to at least two hundred and fifty thousand American Dollars (US\$ 250,000) in foreign capital in an investment enterprise to which this Law applies, and is: a. a physical person, who has no Rwandan Nationality or the nationality of one of the member states of the Common Market of East and Southern African, abbreviated as COMESA ; b. a commercial company incorporated under the laws of any country other than Rwanda or one of the member states of Common Market of East and Southern Africa, COMESA ; c. a commercial company incorporated under Rwandan laws but of which more than fifty percent (50%) of the shares are held by persons who do not hold Rwanda nationality or who do not hold nationality of one of the member states of the Common Market of East and Southern African, COMESA; d. a partnership, in which a partner holds the biggest number of shares and does not hold a Rwandan nationality or a nationality of one of the member states of the Common market of East and southern Africa, COMESA; e. a company or a physical person from East African States who is not of the Common Market for East and Southern African States (COMESA);
Tanzania	Company law	Company		No NCMs identified.
Tanzania	Tanzania Investment Act	Investment	Chapter 38, Section 2	(2) The businesses specified for the purpose of this section which may enjoy the benefits and protection provided under this Act, are those which— a. If wholly owned by a foreign investor or if a joint venture, the minimum investment capital is not less than Tanzanian shillings equivalent to three hundred thousand US dollars (US\$300,000); b. If locally owned, the minimum investment capital is less than Tanzanian shillings equivalent to one hundred thousand US dollars (US\$100,000). A

Partner State	Source law / regulation	Type of law / regulation	Source details	Non-conforming measure (NCM)
Tanzania	Tanzania Investment Act	Investment	Chapter 38, Section 24	<ol style="list-style-type: none"> <li>every business enterprise granted a certificate of incentives under this Act, shall be entitled to an initial automatic immigrant quota of up to five persons during the start up period.</li> <li>Subject to subsection (1), any application for an extra person within an immigrant quota shall be submitted to the Centre which shall, in consultation with the Immigration Department, authorize any additional person which it shall deem necessary taking into consideration the availability of qualified Tanzanians, complexity of the technology employed by the business enterprise and agreements reached with the investors.</li> </ol>
Uganda	The Companies Fees Rules SI 57 of 2005	Company	Head C - fees to be paid by a company to which part x of the Act applies	<ol style="list-style-type: none"> <li>For registering a certified copy of the charter, statute or memorandum and articles of the company or other instrument constituting or defining the constitution of the company = 250.00</li> <li>For registering any other document required to be delivered to the registrar under part X of the Act</li> </ol>
Uganda	The Companies Act 2012	Company	Section 256	<p>Accounts of a foreign company.</p> <p>(2) A foreign company shall not be obliged to comply with subsection (1) if -</p> <p>(a) it was incorporated in any part of the Commonwealth</p>
Uganda	Business Names Registration Act Chapter 109	Company	Section 2 (1) (a), (b)	<p>Section 2. Firms and persons to be registered.</p> <ol style="list-style-type: none"> <li>Subject to this Act - <ol style="list-style-type: none"> <li>every firm having a place of business in Uganda and carrying on business under a business name which does not consist of the true surnames of all partners who are individuals and the corporate names of all partners who are corporations without any addition other than the true Christian names of individual partners or initials of such Christian names</li> </ol> </li> </ol>
Uganda	The Investment Code Act Chapter 92	Investment	Section 10 (5)	<p>(5) A foreign investor who is intending to engage in trade only shall not be required to comply with subsection (1) but shall -</p> <ol style="list-style-type: none"> <li>incorporate a company with the Registrar General as is required by law;</li> <li>deposit a sum of one hundred thousand United States dollars or its equivalent in Uganda shillings at the Bank of Uganda, which shall be specifically used for importation or direct purchase of goods for the business.</li> </ol> <p>Foreign investor is required in addition to incorporating a company to deposit \$100,000 in Bank Of Uganda for the importation of goods.</p>
Uganda	The Investment Code Act Chapter 93	Investment	Section 22(1) (b) and (c)	<p>Enterprises which qualify for incentives.</p> <ol style="list-style-type: none"> <li>An investor in a business enterprise who commences operation after the coming into force of this Code shall qualify for incentives under this Part if - <ol style="list-style-type: none"> <li>in the case of a foreign investor, that investor makes a capital investment or an equivalent in capital goods worth at least five hundred thousand United States dollars by way of capital invested; or</li> <li>in the case of an investor who is a citizen of Uganda, the value of his or her investment is at least fifty thousand United States dollars.</li> </ol> </li> </ol>
Uganda	The Investment Code Act Chapter 94	Investment	Section 26(1) and (2)	<p>A foreign investor who seeks to obtain credit from domestic financial institutions is limited by a limit determined by Bank of Uganda and the use of the credit shall be solely for activities in the investment licence.</p>



While Burundi has adjusted its tariff regime to provide for zero tariffs on EAC originating products the analysis reveals that there are still other charges of equivalent effect to tariffs being applied and thus she has not fully complied with the tariff liberalization commitment

Although as at June 2013 Burundi stands with the least number of legal NTBs she remains non-compliant with the obligation to eliminate NTBs.

Burundi's membership to the ECCAS Free Trade Area violates the commitment to implement a Common External Tariff with third countries and although its membership to COMESA is allowed by the EAC Customs Regime, her membership to other Free Trade Areas complicates the construction and application of the EAC Common External Tariff. In addition the stays of application granted on some of her products also undermine the effective application of the Common External Tariff, yet

the trade flows for the main products granted are minimal.

While Burundi has adopted the EAC Standards legal framework, current EAC NTB monitoring reports reveal that she is still reported to impose SPS & TBT related NTBs.

No.	KEY QUESTIONS	RESPONSE
<b>A. Elimination of Tariffs on Intra Regional Trade</b>		
1	Has Burundi adjusted its tariff schedule to include tariff free category on products originating within the EAC	Yes
2	Have there been any reports of the application of charges of equivalent effect on EAC originating products by Burundi?	Yes, through the EAC NTB Monitoring Framework
3	If yes, compared to the other EAC Partner States, to what extent has Burundi applied charges of equivalent effect on EAC originating products	10% <sup>5</sup>
4	What form(s) have these charges of equivalent effect taken in Burundi?	In the form of entry fee charges on vehicles that carry goods from other Partner States.
5	Has Burundi adopted and applied the EAC Rules of Origin in determining goods that qualify for tariff free treatment?	Yes
6	Have there been any reported problems against Burundi regarding the implementation of the EAC Rules of Origin?	No
7	If yes, compared to other EAC Partner States, what percentage of these reported problems is Burundi accountable for?	N/A
8	What form(s) have these reported problems taken in respect of Burundi?	N/A
<b>B. Elimination of Non-Tariff Barriers</b>		
<b>Status</b>		
9	What is the total number of legal NTBs in the EAC that have been reported against Burundi?	As at June 2013 <sup>6</sup> out of a total of 51(fifty-one) reported legal NTBs in the EAC, 3 (three) of these have been reported against Burundi.
10	Out of the total number of NTBs reported against Burundi, how many have been resolved and those that remain outstanding?	As at June 2013 <sup>7</sup> , 2 (two) have been resolved and 1 (one) remains outstanding.
<b>Products affected by NTBs imposed</b>		
11	What product(s) have been affected by the NTBs reported against Burundi?	All products.

<sup>5</sup>See Methodology note on calculations <sup>6</sup>Supra n.2 <sup>7</sup>Ibid

No.	KEY QUESTIONS	RESPONSE
<b>C. Compliance with the Common External Tariff</b>		
12	Does Burundi apply the EAC Common External Tariff	Yes Burundi applies the EAC Common External Tariff to third countries but also extends preferential treatment to FTAs it belongs to.
13	Apart from the EAC, how many Free Trade Areas does Burundi belong?	Burundi belongs to Common Market for East and Southern Africa (COMESA) Free Trade Area and Economic Community for Central African States (ECCAS) Free Trade Area.
14	Does the EAC Customs Regime allow Burundi to be a member of other FTAs?	The EAC Customs regime only allows for the extension of preferential treatment to COMESA and not to ECCAS.
15	What is the average percentage of trade that takes place between Burundi and the other FTAs it belongs to?	EAC 2012 Trade data reveals that an average of 6.5% trade takes place with ECCAS and COMESA
16	Has Burundi been granted adjustments/stays of application to the Common External Tariff by the EAC Council	Yes
17	If yes, over a period of time, in how many products has Burundi enjoyed these adjustments?	In the period 2011-2013 Burundi has been granted stays of application of the Common External Tariff in 29 products <sup>8</sup> .
18	On the main products with which Burundi has benefitted from the adjustments, what is the percentage of trade in a given period that has been affected?	Wheat and Road Tractors for Semi-Trailers being the main products, International Trade Centre data reveals that in 2011 Burundi imports of wheat represented about 1.23% of her total imports while her imports of Road Tractors for Semi Trailers in the same year represented 0.21% of her total imports.
<b>D. Harmonization and Mutual Recognition of Standards and Technical Barriers to Trade</b>		
19	Has Burundi adopted the EAC Standards Assurance Quality Management and Testing (SQMT) Protocol and the SQMT Act?	Yes
20	Has Burundi ratified the EAC Sanitary and Phyto-sanitary Measures (SPS) Protocol?	No
21	Have there been any reports of SPS and Technical Barriers to Trade (TBT) related measures to intra-regional trade by Burundi?	Yes
22	If yes, compared to the other EAC Partner States, what percentage of EAC reported SPS & TBT related measures is Burundi accountable for?	As at June 2013 <sup>9</sup> , Burundi accounts for 6.25% of all the EAC SPS & TBT related measures reported.

<sup>8</sup>Source: EAC Gazettes 2011- 2013 <sup>9</sup>Supra n.2



## KENYA

While Kenya adjusted its tariff regime to provide for zero tariffs on EAC originating products the analysis reveals that she applies additional charges of equivalent effect to tariffs on EAC originating products and in addition in the implementation of the EAC Rules of Origin regime there are cited issues that add to its full compliance with the commitment to tariff liberalization.

As at June 2013 Kenya continues to impose legal NTBs just as the other

EAC counterparts and therefore non-compliant with the obligation to eliminate NTBs.

Just like the other Partner States providing preferential treatment to other Free Trade Areas, as allowed by the EAC Customs regime, her preferences to COMESA undermine the commitment to implement a Common External Tariff with third countries. In addition the stays of application granted on some of her products also undermine the effective application

of the Common External Tariff, even though the trade flows of the main products for which stays were granted are minimal.

While Kenya has adopted the EAC Standards legal framework, current EAC NTB monitoring reports reveal that she is still reported to impose SPS & TBT related NTBs.

No.	KEY QUESTIONS	RESPONSE
<b>E. Elimination of Tariffs on Intra Regional Trade</b>		
1	Has Kenya adjusted its tariff schedule to include tariff free category on products originating within the EAC	Yes
2	Have there been any reports of the application of charges of equivalent effect on EAC originating products by Kenya?	Yes, through the EAC NTB Monitoring Framework
3	If yes, compared to the other EAC Partner States, to what extent has Kenya applied charges of equivalent effect on EAC originating products	20% <sup>10</sup>
4	What form(s) have these charges of equivalent effect taken in Kenya?	Levy on agricultural products from Tanzania, varying charges on container freight
5	Has Kenya adopted and applied the EAC Rules of Origin in determining goods that qualify for tariff free treatment?	Yes
6	Have there been any reported problems against Kenya regarding the implementation of the EAC Rules of Origin?	Yes
7	If yes, compared to other EAC Partner States, what percentage of these reported problems is Kenya accountable for?	10% <sup>11</sup>
8	What form(s) have these reported problems taken in respect of Kenya?	Non-recognition of Tanzania Certificates of Origin for Rice and Wheat flour
<b>F. Elimination of Non-Tariff Barriers</b>		
<b>Status</b>		
9	What is the total number of legal NTBs in the EAC that have been reported against Kenya?	As at June 2013 <sup>12</sup> out of a total of 51(fifty-one) reported legal NTBs in the EAC, 16 (Sixteen) of these have been reported against Kenya.
10	Out of the total number of NTBs reported against Kenya, how many have been resolved and those that remain outstanding?	As at June 2013 <sup>13</sup> , 9 (nine) have been resolved and 7 (seven) remain outstanding.
<b>Products affected by NTBs imposed</b>		
11	What product(s) have been affected by the NTBs reported against Kenya?	All products and specifically Rice & Wheat flour, tea, tyres and spirits, used clothes and shoes, sugar, milk and milk products, alcoholic beverages, motor vehicles and agricultural products as a broad category.

<sup>10</sup> See Methodology note for calculations <sup>11</sup> See Methodology note for calculations <sup>12</sup> Supra n.2 <sup>13</sup> Ibid

No.	KEY QUESTIONS	RESPONSE
<b>G. Compliance with the Common External Tariff</b>		
12	Does Kenya apply the EAC Common External Tariff	Yes, Kenya applies the EAC Common External Tariff to third countries but also extends preferential treatment to FTAs it belongs to.
13	Apart from the EAC, how many Free Trade Areas does Kenya belong?	Kenya belongs to the Common Market for East and Southern Africa (COMESA)
14	Does the EAC Customs Regime allow Kenya to be a member of other FTAs?	The EAC Customs regime allows for the extension of preferential treatment to COMESA
15	What is the average percentage of trade that takes place between Kenya and COMESA?	EAC 2012 Trade data reveals that an average of 7% trade takes place with COMESA
16	Has Kenya been granted adjustments/stays of application to the Common External Tariff by the EAC Council	Yes
17	If yes, over a period of time, in how many products has Kenya enjoyed these adjustments?	In the period 2011-2013 Kenya has been granted stays of application of the Common External Tariff in 41 products <sup>14</sup> .
18	On the main products with which Kenya has benefitted from the adjustments, what is the percentage of trade in a given period that has been affected?	Rice being the main product, International Trade Centre data reveals that in 2011 Kenya's imports of Rice represented about 1.37% of her total imports.
<b>H. Harmonization and Mutual Recognition of Standards and Technical Barriers to Trade</b>		
19	Has Kenya adopted the EAC Standards Assurance Quality Management and Testing (SQMT) Protocol and the SQMT Act?	Yes
20	Has Kenya ratified the EAC Sanitary and Phyto-sanitary Measures (SPS) Protocol?	No
21	Have there been any reports of SPS and Technical Barriers to Trade (TBT) related measures to intra-regional trade by Kenya?	Yes
22	If yes, compared to the other EAC Partner States, what percentage of EAC reported SPS & TBT related measures is Kenya accountable for?	As at June 2013 <sup>15</sup> , Kenya accounted for 31.25% of all the EAC SPS & TBT related measures reported.

<sup>14</sup> Source: EAC Gazettes 2011- 2013 <sup>15</sup> Supra n.2



## RWANDA

Rwanda adjusted its tariff regime to provide for zero tariffs on EAC originating products and the analysis reveals that she has not applied additional charges of equivalent effect to tariffs on EAC originating products, however implementation of the EAC Rules of Origin continues to hamper its full compliance with the commitment to tariff liberalization.

Although as at June 2013 Rwanda's imposition of legal NTBs in the region

is quite minimal compared to other EAC counterparts she remains non-compliant with the obligation to eliminate NTBs.

Notwithstanding the allowance provided in the EAC Customs regime for her to extend preferences to COMESA, this undermines, just as is the case with other Partner States, the commitment to implement a Common External Tariff with third countries. In addition the stays of application

granted on some of her products also undermine the effective application of the Common External Tariff, even though the trade flows of the main products for which stays were granted are minimal.

While Rwanda has adopted the EAC Standards legal framework, current EAC NTB monitoring reports reveal that she is still reported to impose SPS & TBT related NTBs.

No.	KEY QUESTIONS	RESPONSE
<b>I. Elimination of Tariffs on Intra Regional Trade</b>		
1	Has Rwanda adjusted its tariff schedule to include tariff free category on products originating within the EAC	Yes
2	Have there been any reports of the application of charges of equivalent effect on EAC originating products by Rwanda?	No
3	If yes, compared to the other EAC Partner States, to what extent has Rwanda applied charges of equivalent effect on EAC originating products	N/A
4	What form(s) have these charges of equivalent effect in Rwanda?	N/A
5	Has Rwanda adopted and applied the EAC Rules of Origin in determining goods that qualify for tariff free treatment?	Yes
6	Have there been any reported problems against Rwanda regarding the implementation of the EAC Rules of Origin?	Yes
7	If yes, compared to other EAC Partner States, what percentage of these reported problems is Rwanda accountable for?	10% <sup>16</sup>
8	What form(s) have these reported problems taken in respect of Rwanda?	Non-recognition of EAC Certificates of Origin at the borders
<b>J. Elimination of Non-Tariff Barriers</b>		
<b>Status</b>		
9	What is the total number of legal NTBs in the EAC that have been reported against Rwanda?	As at June 2013 <sup>17</sup> out of a total of 51(fifty-one) reported legal NTBs in the EAC, 5 (five) of these have been reported against Rwanda.
10	Out of the total number of NTBs reported against Rwanda, how many have been resolved and those that remain outstanding?	As at June 2013 <sup>18</sup> , 2 (two) have been resolved and 3 (three) remain outstanding.
<b>Products affected by NTBs imposed</b>		
11	What product(s) have been affected by the NTBs reported against Rwanda?	All products and specifically food products, rice and galvanized sheets

<sup>16</sup> See Methodology note for calculations <sup>17</sup> Supra n.2 <sup>18</sup> Ibid

No.	KEY QUESTIONS	RESPONSE
<b>K. Compliance with the Common External Tariff</b>		
12	Does Rwanda apply the EAC Common External Tariff	Yes, Rwanda applies the EAC Common External Tariff to third countries but also extends preferential treatment to FTAs it belongs to.
13	Apart from the EAC, how many Free Trade Areas does Rwanda belong?	Rwanda belongs to the Common Market for East and Southern Africa (COMESA)
14	Does the EAC Customs Regime allow Rwanda to be a member of other FTAs?	The EAC Customs regime allows for the extension of preferential treatment to COMESA
15	What is the average percentage of trade that takes place between Rwanda and COMESA?	EAC 2012 Trade data reveals that an average of 6.8% trade takes place with COMESA
16	Has Rwanda been granted adjustments/stays of application to the Common External Tariff by the EAC Council	Yes
17	If yes, over a period of time, in how many products has Rwanda enjoyed these adjustments?	In the period 2011-2013 Rwanda has been granted stays of application of the Common External Tariff in 56 products <sup>19</sup> .
18	On the main products with which Rwanda has benefitted from the adjustments, what is the percentage of trade in a given period that has been affected?	Rice and Wheat being the main products, International Trade Centre data reveals that in 2011 Rwanda's imports of Rice represented about 1.22% while her imports of Wheat represented 2.43% of her total imports.
<b>L. Harmonization and Mutual Recognition of Standards and Technical Barriers to Trade</b>		
19	Has Rwanda adopted the EAC Standards Assurance Quality Management and Testing (SQMT) Protocol and the SQMT Act?	Yes
20	Has Rwanda ratified the EAC Sanitary and Phyto-sanitary Measures (SPS) Protocol?	No
21	Have there been any reports of SPS and Technical Barriers to Trade (TBT) related measures to intra-regional trade by Rwanda?	Yes
22	If yes, compared to the other EAC Partner States, what percentage of EAC reported SPS & TBT related measures is Rwanda accountable for?	As at June 2013 <sup>20</sup> , Rwanda accounted for 18.75% of all the EAC SPS & TBT related measures reported.

<sup>19</sup> Source: EAC Gazettes 2011- 2013 <sup>20</sup> Supra n.2



## TANZANIA

While Tanzania adjusted its tariff regime to provide for zero tariffs on EAC originating products the analysis reveals that compared to the other Partner States she applies the most additional charges of equivalent effect to tariffs on EAC originating products and that in the implementation of the EAC Rules of Origin she accounts for most of the problems reported in this area. She, as well as the other EAC Partner States has not fully complied with the commitment to tariff liberalization.

As at June 2013 Tanzania continues to impose legal NTBs just as the other EAC counterparts and therefore non-compliant with the obligation to eliminate NTBs.

Just like the other Partner States providing preferential treatment to other Free Trade Areas, as allowed by the EAC Customs regime, her preferences to SADC undermine the commitment to implement a Common External Tariff with third countries. In addition the stays of application granted

on some of her products also undermine the effective application of the Common External Tariff, even though the trade flows of the main products for which stays were granted are minimal.

While Tanzania has adopted the EAC Standards legal framework, current EAC NTB monitoring reports reveal that she is still reported to impose SPS & TBT related NTBs.

No.	KEY QUESTIONS	RESPONSE
<b>M. Elimination of Tariffs on Intra Regional Trade</b>		
1	Has Tanzania adjusted its tariff schedule to include tariff free category on products originating within the EAC	Yes
2	Have there been any reports of the application of charges of equivalent effect on EAC originating products by Tanzania?	Yes, through the EAC NTB Monitoring Framework
3	If yes, compared to the other EAC Partner States, to what extent has Tanzania applied charges of equivalent effect on EAC originating products	40% <sup>21</sup>
4	What form(s) have these charges of equivalent effect taken in Tanzania?	Levy of extra charges on pharmaceutical products of Kenyan firms, entry fee/levy of US\$ 200 on Kenyan trucks entering Tanzania
5	Has Tanzania adopted and applied the EAC Rules of Origin in determining goods that qualify for tariff free treatment?	Yes
6	Have there been any reported problems against Tanzania regarding the implementation of the EAC Rules of Origin?	Yes
7	If yes, compared to other EAC Partner States, what percentage of these reported problems is Tanzania accountable for?	50% <sup>22</sup>
8	What form(s) have these reported problems taken in respect of Tanzania?	Non-recognition of Kenya Certificates of Origin on certain products like furniture, motor vehicles, plastic bags and cigarettes.
<b>N. Elimination of Non-Tariff Barriers</b>		
<b>Status</b>		
9	What is the total number of legal NTBs in the EAC that have been reported against Tanzania?	As at June 2013 <sup>23</sup> out of a total of 51(fifty-one) reported legal NTBs in the EAC, 18 (eighteen) of these have been reported against Tanzania.
10	Out of the total number of NTBs reported against Tanzania, how many have been resolved and those that remain outstanding?	As at June 2013 <sup>24</sup> , 13 (thirteen) have been resolved and 5 (five) remain outstanding.

<sup>21</sup> See Methodology note for calculations <sup>22</sup> Ibid <sup>23</sup> Supra n.1 <sup>24</sup> Ibid

No.	KEY QUESTIONS	RESPONSE
<b>Products affected by NTBs imposed</b>		
11	What product(s) have been affected by the NTBs reported against Tanzania?	All products and specifically fuel, pharmaceutical products, sugar, plastic bags, furniture products, alcoholic beverages, herbal products, motor vehicles and cigarettes.
<b>O. Compliance with the Common External Tariff</b>		
12	Does Tanzania apply the EAC Common External Tariff	Yes, Tanzania applies the EAC Common External Tariff to third countries but also extends preferential treatment to FTAs it belongs to.
13	Apart from the EAC, how many Free Trade Areas does Tanzania belong?	Tanzania belongs to the Southern Africa Development Cooperation (SADC)
14	Does the EAC Customs Regime allow Tanzania to be a member of SADC?	The EAC Customs regime allows for the extension of preferential treatment to SADC
15	What is the average percentage of trade that takes place between Tanzania and COMESA?	EAC 2012 Trade data reveals that an average of 13.5% trade takes place with SADC
16	Has Tanzania been granted adjustments/stays of application to the Common External Tariff by the EAC Council	Yes
17	If yes, over a period of time, in how many products has Tanzania enjoyed these adjustments?	In the period 2011-2013 Tanzania has been granted stays of application of the Common External Tariff in 11 products <sup>25</sup> .
18	On the main products with which Tanzania has benefitted from the adjustments, what is the percentage of trade in a given period that has been affected?	Wheat being the main product, International Trade Centre data reveals that in 2011 Tanzania's imports of Wheat represented about 3.62% of her total imports.
<b>P. Harmonization and Mutual Recognition of Standards and Technical Barriers to Trade</b>		
19	Has Tanzania adopted the EAC Standards Assurance Quality Management and Testing (SQMT) Protocol and the SQMT Act?	Yes
20	Has Tanzania ratified the EAC Sanitary and Phyto-sanitary Measures (SPS) Protocol?	No
21	Have there been any reports of SPS and Technical Barriers to Trade (TBT) related measures to intra-regional trade by Tanzania?	Yes
22	If yes, compared to the other EAC Partner States, what percentage of EAC reported SPS & TBT related measures is Tanzania accountable for?	As at June 2013 <sup>26</sup> , Tanzania accounted for 31.25% of all the EAC SPS & TBT related measures reported.

<sup>25</sup> Source: EAC Gazettes 2011- 2013 <sup>26</sup> Supra n.2



## UGANDA

While Uganda adjusted its tariff regime to provide for zero tariffs on EAC originating products the analysis reveals that she applies additional charges and taxes on EAC originating products and in addition in the implementation of the EAC Rules of Origin regime there are cited issues that limit its full compliance with the commitment to tariff liberalization.

As at June 2013 Uganda continues to impose legal NTBs just as the other EAC counterparts and therefore non-compliant with the

obligation to eliminate NTBs.

Just like the other Partner States providing preferential treatment to other Free Trade Areas, as allowed by the EAC Customs regime, her preferences to COMESA undermine the commitment to implement a Common External Tariff with third countries. In addition the stays of application granted on some of her products also undermine the effective application of the Common External Tariff, even though the trade flows of the main

products for which stays were granted are minimal.

While Uganda has adopted the EAC Standards legal framework, current EAC NTB monitoring reports reveal that she is still reported to impose SPS & TBT related NTBs.

No.	KEY QUESTIONS	RESPONSE
<b>Q. Elimination of Tariffs on Intra Regional Trade</b>		
1	Has Uganda adjusted its tariff schedule to include tariff free category on products originating within the EAC	Yes
2	Have there been any reports of the application of charges of equivalent effect on EAC originating products by Uganda?	Yes, through the EAC NTB Monitoring Framework
3	If yes, compared to the other EAC Partner States, to what extent has Uganda applied charges of equivalent effect on EAC originating products	30% <sup>27</sup>
4	What form(s) have these charges of equivalent effect taken in Uganda?	6% Withholding Tax on all imports, 1.5% dairy levy
5	Has Uganda adopted and applied the EAC Rules of Origin in determining goods that qualify for tariff free treatment?	Yes
6	Have there been any reported problems against Uganda regarding the implementation of the EAC Rules of Origin?	Yes
7	If yes, compared to other EAC Partner States, what percentage of these reported problems is Uganda accountable for?	30% <sup>28</sup>
8	What form(s) have these reported problems taken in respect of Uganda?	Non-recognition of Kenya Certificates of Origin on certain products like Rice, motor vehicles and aluminium products
<b>R. Elimination of Non-Tariff Barriers</b>		
<b>Status</b>		
9	What is the total number of legal NTBs in the EAC that have been reported against Uganda?	As at June 2013 <sup>29</sup> out of a total of 51(fifty-one) reported legal NTBs in the EAC, 9 (nine) of these have been reported against Uganda.
10	Out of the total number of NTBs reported against Uganda, how many have been resolved and those that remain outstanding?	As at June 2013 <sup>30</sup> , 4 (four) have been resolved and 5 (five) remain outstanding.
<b>Products affected by NTBs imposed</b>		
11	What product(s) have been affected by the NTBs reported against Uganda?	All products and specifically Rice, beef and beef products, motor vehicles, aluminium products and dairy products

<sup>27</sup>See Methodology note on calculations <sup>28</sup>Ibid <sup>29</sup>Supra n.2 <sup>30</sup>See Methodology note on calculations

No.	KEY QUESTIONS	RESPONSE
<b>Products affected by NTBs imposed</b>		
11	What product(s) have been affected by the NTBs reported against Uganda?	All products and specifically Rice, beef and beef products, motor vehicles, aluminium products and dairy products
<b>S. Compliance with the Common External Tariff</b>		
12	Does Uganda apply the EAC Common External Tariff	Yes, Uganda applies the EAC Common External Tariff to third countries but also extends preferential treatment to FTAs it belongs to.
13	Apart from the EAC, how many Free Trade Areas does Uganda belong?	Uganda belongs to the Common Market for East and Southern Africa (COMESA)
14	Does the EAC Customs Regime allow Uganda to be a member of COMESA?	The EAC Customs regime allows for the extension of preferential treatment to COMESA
15	What is the average percentage of trade that takes place between Uganda and COMESA?	EAC 2012 Trade data reveals that an average of 7.48% trade takes place with COMESA
16	Has Uganda been granted adjustments/stays of application to the Common External Tariff by the EAC Council	Yes
17	If yes, over a period of time, in how many products has Uganda enjoyed these adjustments?	In the period 2011-2013 Uganda has been granted stays of application of the Common External Tariff in 35 products <sup>31</sup> .
18	On the main products with which Uganda has benefitted from the adjustments, what is the percentage of trade in a given period that has been affected?	Wheat and Road Tractors for Semi Trailers being the main products, International Trade Centre data reveals that in 2011 Uganda's imports of Wheat represented about 2.82% and those of Road Tractors for Semi Trailers represented about 0.49% of her total imports.
<b>T. Harmonization and Mutual Recognition of Standards and Technical Barriers to Trade</b>		
19	Has Uganda adopted the EAC Standards Assurance Quality Management and Testing (SQMT) Protocol and the SQMT Act?	Yes
20	Has Uganda ratified the EAC Sanitary and Phyto-sanitary Measures (SPS) Protocol?	No
21	Have there been any reports of SPS and Technical Barriers to Trade (TBT) related measures to intra-regional trade by Uganda?	Yes
22	If yes, compared to the other EAC Partner States, what percentage of EAC reported SPS & TBT related measures is Uganda accountable for?	As at June 2013 <sup>32</sup> , Uganda accounted for 12.5% of all the EAC SPS & TBT related measures reported.

<sup>31</sup>Source: EAC Gazettes 2011- 2013 <sup>32</sup>Supra n.2





# LIST OF LAWS & REGULATIONS

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1. LOI NO 1/06 du 25 mars 2010 portant regime juridique de la concurrence
2. LOI NO 1/01/ du 9/02/2012 relative a l'organisation de la privatization des entreprises a participation publiques, des services and des ouvrages publics
3. Reglementation des changes par la banque de la Republique du Burundi, Jun 2010
4. Reglementation des changes par la Banque de la Republique du Burundi. 6/12/2006
5. Companies Code (Companies Act), Law NO 1/09 Of 30/5/2011
6. Investment Code of Burundi, Law NO. 1/24 of 10/09/2008
7. Decret NO. 100/201 du 27/7/2006 portant Reglementation des activites de microfinance au Burundi
8. Decret LOI NO. 1/036 du 7/7/1993 portant statuts de la Banque de la Republique du Burundi
9. LOI NO. 1/017 du 23 Octobre 2003 portant Reglementation des banques et des Establishments financiers
10. LOI NO 1/34 du 02/12/2008 portant Statuts de la Banque de la Republique du Burundi
11. Convention Entre le Minstere des Finances et la Banque de la Republique du Burundi portant sur les emissions de bons et d'obligations du tresor du 22/6/2006

12. Instruction portant reglement du marche des titres du tresor du Burundi
13. Reglement du marche des encheres symetriques du devises.
14. Circulaire NO 17/06 relative a l'interdiction au credit au change des clients defaillants au pres du secteur financier prise en vertu du la LOI NO 1/017 du 23 Octobre 2003 portant reglementation des banques et des etablissements financiers
15. Circulaire NO 14/06 relative a la consolidation des comptes des banque et etablissements financiers edictee en vertu du la LOI N) 1/017 du 23 Octobre 2003 portant reglementation des banque et des etablissements financiers
16. Circulaire NO 13/99 modifiant la circulaire NO 13/94 relative a la classification du portefeuille
17. Circulaire NO 11/06 relative aux activites non bancaires des banques et etablissements financiers edictee en vertu de la LOI NO 1/017 du 23 Octobre 2003 portant reglementation des banques et des etablissements financiers
18. Circulaire NO 10/06 relative aux conditions d'implantation des agences et guichets des banques et etablissements financiers edictee en vertu de la LOI NO 1/017 du 23 Octobre 2003 portant reglementation des banques et des etablissements financiers
19. Circulaire NO 09/06 relative a la prise et la detention de participation des banques et etablissements financiers edictee en vertu de la LOI NO 1/017 du 23 octobre 2003 portant reglementation des banque et des etablissements financiers
20. Circulaire NO. 03/06 relative au raticon de Solvabilite des banque et establishments financiers edictee en vertu de la LOI NO 1/017 du 23 Octobre 2003 portant

reglementation des banque et des etalissements financiers

21. Circulaire NO. 02/06 relative aux fonds propres des banques et des etablissements financiers edictee en vertu de la LOI NO 1/017 du 23 Octobre 2003 portant reglementatoin des banques et des etablissements financiers.

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24. The Capital Markets (Securities) (Public Offers, Listing and Disclosure) Regulations, 2002
25. The Central Depositories (Regulation of Central Depositories), Rules 2004
26. The Capital Markets (Foreign Investors) Regulations, 2002
27. 90. The Capital Markets (Collective Investment Schemes) Regulations, 2001
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66. Physical Planning (Enforcement Notices) Regulations, 1998
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243. Ministerial order specifying the content of the regulatory board's register of telecommunications activities (07 June 2004)

244. Ministerial order on conditions to be incorporated into telecommunications and radio communications licenses (07 June 2004)
245. Regulations N°004/ICT/RURA/2012 OF 7/05/2012 for International Gateway Traffic Verification System
246. Marketing communications guidelines for EACO National Regulatory Authorities (draft)
247. Amending guidelines for siting and sharing of Telecommunication base station infrastructure, 2011
248. Regulations on Promotions by Telecommunications Operators issued by Regulatory Board
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250. Guidelines for limiting human exposure to Electromagnetic Fields
251. Guidelines for Internet resources management and allocation in general and .RW domain in particular
252. Guidelines for Rwanda Internet Exchange point (RINEX) management
253. Guidelines for broadband Internet quality of service
254. Guidelines on the operations of Internet Cafes in Rwanda
255. Guidelines for Interconnection
256. Guidelines for analogue to terrestrial digital broadcasting transition
257. Guidelines for importation of radio communications and **broadcasting** equipment
258. Guidelines for the use ISM band
259. Managing the change from Analogue to Terrestrial Digital Broadcast in Rwanda
260. Reference Infrastructure Sharing Offer (RISO)
261. Guidelines for Sharing of Dark Fiber and Duct Infrastructure
262. Cyber security and CIIP towards a primarily knowledge based economy by the year 2020
263. Regulations N°004/ICT/RURA/2012 OF 7/05/2012 for International Gateway Traffic Verification System

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264. Law establishing Rwanda Transport Development Agency (RTDA) and determining its mission, structure and functioning (20 January 2010)
265. Law relating to traffic police (17 September 1987)
266. Law establishing Rwanda Civil Aviation Authority (RCAA), and determining its mission, organization and functioning (14 December 2011)
267. Law governing roads in Rwanda (14 December 2011)
268. Law governing civil aviation (20 January 2011)
269. Ministerial order on annual fees payable by public utilities (07 June 2004)
270. Additional and specific types of agreements, decisions, practices and codes of conduct considered to be anti-competitive or an abuse of a dominant position (07 June 2004)
271. Guidelines for the transport of goods in Rwanda
272. Guidelines for the transport of persons in Rwanda
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274. The Civil Aviation Air Operator Certification and Administration Regulations

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276. The Civil Aviation Airworthiness Regulations
277. The Civil Aviation Approved Maintenance Organization Regulations
278. The Civil Aviation Instruments and Equipment Regulations
279. The Civil Aviation General Provisions Regulations
280. The Civil Aviation Aerial Work Regulations
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282. The Civil Aviation Aircraft Accident and Incident Investigation Regulations
283. The Civil Aviation Approved Training Organizations Regulations
284. The Civil Aviation Commercial Air Transport Operations by foreign Air Operator in and out of Rwanda Regulations
285. The Civil Aviation Fees and Charges Regulations
286. The Civil Aviation Licensing of Air Services Regulations
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288. The Civil Aviation Parachute Regulations
289. The Civil Aviation Personnel Licensing Regulations
290. The Civil Aviation Rules of the Air and Air Traffic Control Regulations
291. The Civil Aviation Search and Rescue Regulations
292. The Civil Aviation Security Regulations
293. RCAA-CAD-001 Requirements for Importation of Aeronautical products into Rwanda
294. RCAA-CAD017 Flight Operations and Crew Briefings

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295. Ministerial Order N°01/09/MINICOM of 08/05/2009 determining small private limited company;
296. Ministerial Order N°10/2011 of 20/5/2011 determining fees for registration of companies' business activities;
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  - b. Second Schedule – Certificate of Environmental Expert Certificate
  - c. Third Schedule – Register of Environmental Experts/Firms
  - d. Fourth Schedule – Application for Access to Information
  - e. Code of practice and professional ethics
318. Environmental Impact Assessment and Audit GN 349
  - a. Third Schedule – Forms for EIA
  - b. Other Forms

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320. The Tanzania Communication Company Incorporation Act, no. 20, 1993.
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473. Cotton Development Act Chapter 30
474. Food and Drug Act Chapter 278
475. Dairy Industry Act Chapter 85
476. Cattle Traders Act Chapter 43
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478. The Markets Act Chapter 84
479. Industry Licensing Act Chapter 91
480. The Liquor Act Chapter 93
481. The Weights and Measures Act Chapter 103
482. The Control of Agricultural Chemicals Act Chapter 29
483. The Sugar (Control) Act Chapter 34
484. The Tobacco (Control and Marketing) Act Chapter 35
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500. Liquor Act Cap 93
501. The Bulk Sales Act Chapter 69
502. The Cattle Traders Act Chapter 43
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